

**MINUTES OF THE CITY-COUNTY COUNCIL  
AND  
SPECIAL SERVICE DISTRICT COUNCILS  
OF  
INDIANAPOLIS, MARION COUNTY, INDIANA**

**REGULAR MEETINGS  
MONDAY, FEBRUARY 11, 2008**

The City-County Council of Indianapolis, Marion County, Indiana and the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:01 p.m. on Monday, February 11, 2008, with President Cockrum presiding.

Councillor Cardwell introduced Tim Davis, executive pastor of the Grace Assembly of God, who led the opening prayer. Councillor Cardwell then invited all present to join him in the Pledge of Allegiance to the Flag.

**ROLL CALL**

President Cockrum instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

*29 PRESENT: Bateman, Brown, Cain, Cardwell, Carson, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lutz, MahernB, MahernD, Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Pryor, Sanders, Scales, Smith, Speedy, Vaughn*  
*0 ABSENT:*

A quorum of twenty-nine members being present, the President called the meeting to order.

**INTRODUCTION OF GUESTS AND VISITORS**

Councillor Hunter recognized Chris Watts from the Community Heights Organization on the east side. Councillor Plowman recognized Public Safety Director Scott Newman, Indianapolis Metropolitan Police Department (IMPD) Chief Michael Spears, and other IMPD officers in attendance. Councillor Nytes introduced Mike Higbee, former director of the Department of Metropolitan Development, who is now involved with the Martindale for the Monon project. Councillor Gray recognized Tom Hanify and Mike Reeves, Local 416 Firefighters Union.

## **OFFICIAL COMMUNICATIONS**

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA

Ladies And Gentlemen :

You are hereby notified the REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers, on Monday, February 11, 2008, at 7:00 p.m., the purpose of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,  
s/Bob Cockrum  
President, City-County Council

January 29, 2007

TO PRESIDENT COCKRUM AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

Pursuant to the laws of the State of Indiana, I caused to be published in the *Court & Commercial Record* and in the *Indianapolis Star* on Friday, February 1, 2008, a copy of a Notice of Public Hearing on Proposal Nos. 33-34, 2008, said hearing to be held on Monday, February 11, 2008, at 7:00 p.m. in the City-County Building.

Respectfully,  
s/Melissa Thompson  
Clerk of the City-County Council

February 1, 2008

TO PRESIDENT COCKRUM AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

I have approved with my signature and delivered this day to the Clerk of the City-County Council, Melissa Thompson, the following ordinances:

GENERAL ORDINANCE NO. 1, 2008 – amends Chapter 151 of the Code regarding the duties of the general counsel and caucus attorneys with regard to representation of council members on private matters

SPECIAL RESOLUTION NO. 1, 2008 – recognizes Jay Staton on attaining the rank of Eagle Scout

SPECIAL RESOLUTION NO. 2, 2008 - recognizes Evan Fetherolf on attaining the rank of Eagle Scout

Respectfully,  
s/Gregory A. Ballard, Mayor

## **ADOPTION OF THE AGENDA**

The President proposed the adoption of the agenda as distributed.

Councillor Sanders moved, seconded by Councillor Moriarty Adams, to return Proposal No. 6, 2008 to Committee. She said that she asked for a fiscal impact statement in Committee and still has not received one, and she feels to be fiscally responsible, the Council needs this statement to make an informed decision on this matter. The motion to return to committee failed on the following roll call vote; viz:

*12 YEAS: Bateman, Carson, Evans, Gray, MahernB, MahernD, Mansfield, Moriarty Adams, Nytes, Oliver, Pryor, Sanders*  
*17 NAYS: Brown, Cain, Cardwell, Cockrum, Coleman, Day, Hunter, Lutz, Malone, McHenry, McQuillen, Pfisterer, Plowman, Scales, Smith, Speedy, Vaughn*

Councillor Sanders stated that it has been the practice of this body to only require eight votes to return a proposal to committee. Robert Elrod, General Counsel, stated that he cannot comment on what has been the practice the past four years, as he did not serve as General Counsel at that time. He said that a proposal that is being introduced can be referred to a committee with a simple eight votes. According to the Rules, however, once a proposal has been through the committee process, for it to be returned to committee, it needs a majority vote.

Without further objection, the agenda was adopted.

### **APPROVAL OF THE JOURNAL**

The President called for additions or corrections to the Journal of January 28, 2008. There being no additions or corrections, the minutes were approved as distributed.

### **PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS, AND COUNCIL RESOLUTIONS**

PROPOSAL NO. 44, 2008. The proposal, sponsored by Councillors Bateman, Oliver and Nytes, recognizes the Country Kitchen Soul Food Place for their efforts during the Christmas holiday. Councillor Bateman read the proposal and stated that he will present it to representatives at a later date. He moved, seconded by Councillor Oliver, for adoption. Proposal No. 44, 2008 was adopted by a unanimous voice vote.

Proposal No. 44, 2008 was retitled SPECIAL RESOLUTION NO. 3, 2008, and reads as follows:

#### **CITY-COUNTY SPECIAL RESOLUTION NO. 3, 2008**

A SPECIAL RESOLUTION recognizing the Country Kitchen Soul Food Place for their efforts during the Christmas holiday.

WHEREAS, The Country Kitchen Soul Food Place, owned by Isaac and Cynthia Wilson, is located on North College Avenue and has been a neighborhood staple for many years; and

WHEREAS, the restaurant feeds residents of the community, local politicians, business leaders, and other hometown celebrities on a daily basis, as well as patrons from as far away as Illinois and Ohio; and

WHEREAS, since 2005, Isaac and Cynthia have had a vision to feed 500 homeless and less fortunate people during the Christmas holiday, and decided through determination and sacrifice that 2007 was the year to make it happen. They discussed their vision with Michael Bowens of RM Construction, who decided to increase the mission to feed 1,000 people; and

WHEREAS, on Christmas Eve, Cynthia and three others worked 21 hours preparing food for the multitude, and served dinner on Christmas day with the help of several employees and 54 volunteers; and

WHEREAS, the effort expanded to delivery of dinners when the group was informed that there were people at a local church and café waiting to be fed, which later resulted in dinners being delivered to senior citizen centers, missions, churches, women's shelters, neighborhood residents, and homeless citizens on the streets of Indianapolis; and; and

WHEREAS, by 2:00 p.m., the 1,000-people goal was surpassed and people continued to be fed until shortly after 3:30 p.m. The effort successfully fed close to 1,200 people; and

WHEREAS, volunteers had many heart-warming stories and encounters to share, which included gratitude and appreciation from a mother and her eleven children and a senior citizen woman; and

WHEREAS, Isaac and Cynthia intend to make this effort an annual event at the Country Kitchen Soul Food Place, and are grateful for the many hungry citizens of Indianapolis that they were able to help; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly recognizes the efforts of Isaac and Cynthia Wilson, of the Country Kitchen Soul Food Place.

SECTION 2. The Council thanks the Wilson's for being committed to serving those in need and wishes them much future success of this great endeavor.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 77, 2008. The proposal, sponsored by Councillor Pryor, recognizes Jackie "Jack" W. Hines. Councillor Pryor read the proposal and presented Mrs. Judy Hines with a copy of the document and a Council pin. Mrs. Hines thanked the Council for the recognition and stressed the importance of being an organ donor. Councillor Pryor moved, seconded by Councillor Sanders, for adoption. Proposal No. 77, 2008 was adopted by a unanimous voice vote.

Proposal No. 77, 2008 was retitled SPECIAL RESOLUTION NO. 4, 2008, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 4, 2008

A SPECIAL RESOLUTION recognizing Jackie "Jack" W. Hines.

WHEREAS, Jack Hines was a devoted husband, father, community leader, and employee with the Indianapolis Public Transportation until his retirement; and

WHEREAS, Jack married his wife Judy and moved to Indianapolis, Indiana from Jonesville, Virginia in 1961; and

WHEREAS, Jack and Judy are the proud parents of four children, five grandchildren and three great grandchildren; and

WHEREAS, Jack began his work with the Indianapolis Public Transportation as a city bus driver and worked his way up to Superintendent of Treasury before retiring after 35 years of service, during which time he only missed work to attend funerals or be with his wife for the birth of their children; and

WHEREAS, Jack was a very unselfish man and he always thought of others before himself. He provided a home to children when necessary, regularly gave to those in need, and was known as Dad or PawPaw to many children in the community; and

WHEREAS, Jack was a member of Fellowship Baptist Church and was a coach with the Northwest Youth Association; and

WHEREAS, Jack began experiencing health problems beginning in the late 1980's which continued throughout the rest of his life;

WHEREAS, Jack received a lung transplant in 1998 and lived 9 1/2 years after the organ transplant; and

WHEREAS, Jack and Judy renewed their vows on their 48<sup>th</sup> wedding anniversary, December 26, 2007, at Methodist Hospital with the help of his family, doctors, and nurses; and

February 11, 2008

WHEREAS, Jack died on December 31, 2007, and as a registered organ donor he was able to help save the lives of over 80 people and give sight to one; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly recognizes Jackie "Jack" Hines for his many selfless acts and unwavering concern for the well being of others.

SECTION 2. The Council sincerely honors Mr. Hines for displaying characteristics of faithfulness, commitment, and devotion to every aspect of his life.

SECTION 3: The Council recognizes that Mr. Hines was a hero, by giving of himself during his life, and also helping to save the lives of others upon this death.

SECTION 4. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 5. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 4, 2008. Councillor Lutz reported that the Rules and Public Policy Committee heard Proposal No. 4, 2008 on January 15 and February 5, 2008. The proposal, sponsored by Councillors Vaughn, Plowman, Brown and Pfisterer, approves the Mayor's appointment of Olgen Williams as the Deputy Mayor for Neighborhoods. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Lutz moved, seconded by Councillor Vaughn, for adoption. Proposal No. 4, 2008 was adopted on the following roll call vote; viz:

*26 YEAS: Brown, Cain, Cardwell, Carson, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lutz, MahernB, MahernD, Malone, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Sanders, Scales, Smith, Speedy, Vaughn*

*0 NAYS:*

*3 NOT VOTING: Bateman, Mansfield, Pryor*

Proposal No. 4, 2008 was retitled COUNCIL RESOLUTION NO. 4, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 4, 2008

A COUNCIL RESOLUTION approving the Mayor's appointment of Olgen Williams as the Deputy Mayor for Neighborhoods for a term ending December 31, 2008, and until a successor is appointed and confirmed.

WHEREAS, pursuant to IC 36-3-5-2 and Section 201-4 of the "Revised code of the Consolidated City and County," a mayoral appointment of Deputy Mayor is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of Olgen Williams to serve as Deputy Mayor for Neighborhoods at his pleasure for a term ending December 31, 2008; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Olgen Williams is approved and confirmed by the City-County Council to serve as Deputy Mayor for Neighborhoods for a term ending December 31, 2008, and until a successor is appointed and confirmed.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Plowman reported that the Metropolitan Development Committee heard Proposal Nos. 18-20, 2008 on February 4, 2008. He asked for consent to vote on these proposals together. Councillor Sanders requested that they be voted on separately.

PROPOSAL NO. 18, 2008 . The proposal, sponsored by Councillor Plowman, appoints Timothy Ping to the Metropolitan Development Commission. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Plowman moved, seconded by Councillor Cardwell, for adoption. Proposal No. 18, 2008 was adopted on the following roll call vote; viz:

*29 YEAS: Bateman, Brown, Cain, Cardwell, Carson, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lutz, MahernB, MahernD, Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Pryor, Sanders, Scales, Smith, Speedy*  
*0 NAYS:*

Proposal No. 18, 2008 was retitled COUNCIL RESOLUTION NO. 5, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 5, 2008

A COUNCIL RESOLUTION appointing Timothy Ping to the Metropolitan Development Commission.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Development Commission, the Council appoints:

Timothy Ping.

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2008. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

PROPOSAL NO. 19, 2008. The proposal, sponsored by Councillor Plowman, appoints Bradley A. Klopfenstein to the Metropolitan Board of Zoning Appeals, Division II. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Plowman moved, seconded by Councillor Cardwell, for adoption, as amended.

Councillor Sanders asked for clarification that the board division was changed in Committee and Mr. Klopfenstein is serving on a different board than the next appointee, Mr. Maguire. Councillor Plowman said that this is correct, and it was changed to Division II.

Councillor Mansfield stated that she had wished to attend the committee meeting, but was not able. She said that she has sincere concerns about Mr. Klopfenstein serving on this board, because of his position with the Indiana Alcoholic Beverage Association. Although Mr. Klopfenstein indicated he would abstain from voting on issues where there is a conflict, she still has concerns.

Proposal No. 18, 2008, as amended, was adopted on the following roll call vote; viz:

*25 YEAS: Brown, Cain, Cardwell, Carson, Cockrum, Coleman, Day, Evans, Hunter, Lutz, MahernB, MahernD, Malone, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Pryor, Scales, Smith, Speedy, Vaughn*  
*4 NAYS: Bateman, Gray, Mansfield, Sanders*

February 11, 2008

Proposal No. 19, 2008 was retitled COUNCIL RESOLUTION NO. 6, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 6, 2008

A COUNCIL RESOLUTION appointing Bradley A. Klopfenstein to the Metropolitan Board of Zoning Appeals, Division II.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals, Division II, the Council appoints:

Bradley A. Klopfenstein.

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2008. The person appointed by this resolution shall serve at the pleasure of the Council and until a successor is appointed and qualified.

PROPOSAL NO. 20, 2008. The proposal, sponsored by Councillor Plowman, appoints Timothy J. Maguire to the Metropolitan Board of Zoning Appeals, Division I. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Plowman moved, seconded by Councillor Cardwell, for adoption. Proposal No. 20, 2008 was adopted on the following roll call vote; viz:

*24 YEAS: Brown, Cain, Cardwell, Carson, Cockrum, Coleman, Day, Evans, Hunter, Lutz, MahernB, MahernD, Malone, McHenry, McQuillen, Moriarty Adams, Nytes, Pfisterer, Plowman, Pryor, Scales, Smith, Speedy, Vaughn*  
*5 NAYS: Bateman, Gray, Mansfield, Oliver, Sanders*

Proposal No. 20, 2008 was retitled COUNCIL RESOLUTION NO. 7, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 7, 2008

A COUNCIL RESOLUTION appointing Timothy J. Maguire to the Metropolitan Board of Zoning Appeals, Division I.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals, Division I, the Council appoints:

Timothy J. Maguire.

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2008. The person appointed by this resolution shall serve at the pleasure of the Council and until a successor is appointed and qualified.

PROPOSAL NO. 28, 2008. Councillor Vaughn reported that the Public Safety and Criminal Justice Committee heard Proposal No. 28, 2008 on January 31, 2008. The proposal, sponsored by Councillor Vaughn, appoints Jennifer Lukemeyer to the Marion County Public Defender Board. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Vaughn moved, seconded by Councillor Cardwell, for adoption. Proposal No. 28, 2008 was adopted on the following roll call vote; viz:

*29 YEAS: Bateman, Brown, Cain, Cardwell, Carson, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lutz, MahernB, MahernD, Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Pryor, Sanders, Scales, Smith, Speedy*  
*0 NAYS:*

Proposal No. 28, 2008 was retitled COUNCIL RESOLUTION NO. 8, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 8, 2008

A COUNCIL RESOLUTION appointing Jennifer Lukemeyer to the Marion County Public Defender Board.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Marion County Public Defender Board, the Council appoints:

Jennifer Lukemeyer.

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2010. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

PROPOSAL NO. 30, 2008 Councillor Vaughn reported that the Public Safety and Criminal Justice Committee heard Proposal No. 30, 2008 on January 31, 2008. The proposal, sponsored by Councillor Vaughn, appoints Paul Page to the Marion County Public Defender Board. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Vaughn moved, seconded by Councillor McQuillen, for adoption. Proposal No. 30, 2008 was adopted on the following roll call vote; viz:

*27 YEAS: Bateman, Brown, Cain, Cardwell, Carson, Coleman, Day, Evans, Hunter, Lutz, MahernB, MahernD, Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Pryor, Sanders, Scales, Smith, Speedy, Vaughn*  
*2 NAYS: Cockrum, Gray*

Proposal No. 30, 2008 was retitled COUNCIL RESOLUTION NO. 9, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 9, 2008

A COUNCIL RESOLUTION appointing Paul Page to the Marion County Public Defender Board.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Marion County Public Defender Board, the Council appoints:

Paul Page.

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2010. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Councillor Hunter reported that the Public Works Committee heard Proposal Nos. 35 and 37, 2008 on February 7, 2008. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 35, 2008. The proposal, sponsored by Councillor Hunter, approves the Mayor's appointment of David Sherman as the Director of the Department of Public Works. PROPOSAL NO. 37, 2008. The proposal, sponsored by Councillor Hunter, appoints Gary W. Whitmore to the Board of Public Works. By 9-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass.



Councillor Nytes said that the Department of Public Works touches all constituents. She asked if Mr. Sherman is in attendance so that those who do not serve on that committee can put a face with the name. Councillor Hunter said that Mr. Sherman is not here, and he believes he is probably busy gearing up for the coming snow storm.

Councillor Moriarty Adams stated that she has known Mr. Sherman for over a decade and he is an excellent choice for this position and has the experience to do the job well.

Councillor Hunter moved, seconded by Councillor Moriarty Adams, for adoption. Proposal Nos. 35 and 37, 2008 were adopted on the following roll call vote; viz:

*29 YEAS: Bateman, Brown, Cain, Cardwell, Carson, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lutz, MahernB, MahernD, Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Pryor, Sanders, Scales, Smith, Speedy*  
*0 NAYS:*

Proposal No. 35, 2008 was retitled COUNCIL RESOLUTION NO. 10, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 10, 2008

A COUNCIL RESOLUTION approving the Mayor's appointment of David Sherman as the Director of the Department of Public Works for a term ending December 31, 2008, and until a successor is appointed and confirmed.

WHEREAS, pursuant to IC 36-3-5-2 and Section 201-3 of the "Revised code of the Consolidated City and County," a mayoral appointment of the Director of the Department of Public Works is subject to the approval of the City-County Council; and

WHEREAS, the Mayor of the City of Indianapolis has submitted to this Council the name of David Sherman to serve as Director of the Department of Public Works at his pleasure for a term ending December 31, 2008; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. David Sherman is approved and confirmed by the City-County Council to serve as the Director of the Department of Public Works for a term ending December 31, 2008, and until a successor is appointed and qualified.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 37, 2008 was retitled COUNCIL RESOLUTION NO. 11, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 11, 2008

A COUNCIL RESOLUTION appointing Gary W. Whitmore to the Board of Public Works.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Board of Public Works, the Council appoints:

Gary W. Whitmore.

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2008. The person appointed by this resolution shall serve at the pleasure of the Council and until a successor is appointed and qualified.

Councillor Lutz reported that the Rules and Public Policy Committee heard Proposal Nos. 39 and 40, 2008 on February 5, 2008. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 39, 2008. The proposal, sponsored by Councillors Lutz and Pfisterer, appoints Dean T. Farmer to the Cable Franchise Board. PROPOSAL NO. 40, 2008. The proposal, sponsored by Councillor Lutz, appoints Peter Nugent to the Board of Ethics. By an 8-0 vote, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Lutz moved, seconded by Councillor Pfisterer, for adoption. Proposal Nos. 39 and 40, 2008 were adopted on the following roll call vote; viz:

*29 YEAS: Bateman, Brown, Cain, Cardwell, Carson, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lutz, MahernB, MahernD, Malone, Mansfield, McHenry, McQuillen, Moriarty, Adams, Nytes, Oliver, Pfisterer, Plowman, Pryor, Sanders, Scales, Smith, Speedy*  
*0 NAYS:*

Proposal No. 39, 2008 was retitled COUNCIL RESOLUTION NO. 12, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 12, 2008

A COUNCIL RESOLUTION appointing Dean T. Farmer to the Cable Franchise Board.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Cable Franchise Board, the Council appoints:

Dean T. Farmer.

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2009. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

Proposal No. 40, 2008 was retitled COUNCIL RESOLUTION NO. 13, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 13, 2008

A COUNCIL RESOLUTION appointing Peter Nugent to the Board of Ethics.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Board of Ethics, the Council appoints:

Peter Nugent.

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2008. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

**INTRODUCTION OF PROPOSALS**

PROPOSAL NO. 24, 2008. Introduced by Councillors Vaughn and Brown. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Gary A. Jennings to the

Citizens Police Complaint Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 55, 2008. Introduced by Councillor Pfisterer. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Dorothy Hancock to the City-County Administrative Board"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 56, 2008. Introduced by Councillor Pfisterer. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which appropriates \$1,850,000 in the 2008 Budget of the Marion County Assessor (County General Fund) to cover the cost of contracting for the 2007 reassessment of commercial and industrial property as ordered by the Indiana Department of Local Government Finance"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 57, 2008. Introduced by Councillor Plowman. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Alan Retherford to the Metropolitan Board of Zoning Appeals, Division III"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 58, 2008. Introduced by Councillor Plowman. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Keith D. Smith to the Metropolitan Board of Zoning Appeals, Division I"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 59, 2008. Introduced by Councillors Nytes and Carson. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which appropriates \$156,000 in the 2008 Budget of the Department of Metropolitan Development (Federal Non-lapsing Grants and State Non-lapsing Grants Funds) to fund the purchase of supplies and equipment for the Indianapolis Brownfield Redevelopment Program and to fund electrical and natural gas services for businesses in the Indiana University Emerging Technologies Center, financed by an existing EPA Assessment Grant and a State of Indiana Technology Development Fund Grant"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 60, 2008. Introduced by Councillors Nytes and Carson. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which appropriates \$460,000 in the 2008 Budget of the Department of Metropolitan Development (Federal Grants Fund) to fund capital repairs needed at the Indiana Theatre Building, financed by prior years' program income generated by Urban Development Action Grants"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 61, 2008. Introduced by Councillors McQuillen and Day. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Richard E. Brown to the Beech Grove Public Library Board"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 62, 2008. Introduced by Councillor Day. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Matthew T. Klein to the Indianapolis Greenways Development Committee"; and the President referred it to the Parks and Recreation Committee.

PROPOSAL NO. 63, 2008. Introduced by Councillor Cain. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Kenneth Pendleton to the Indianapolis Greenways Development Committee"; and the President referred it to the Parks and Recreation Committee.

PROPOSAL NO. 64, 2008. Introduced by Councillors Day and Cain. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Eugene Schulstad to the Indianapolis Greenways Development Committee"; and the President referred it to the Parks and Recreation Committee.

PROPOSAL NO. 65, 2008. Introduced by Councillor Day. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Joseph E. Mayes to the Board of Parks and Recreation"; and the President referred it to the Parks and Recreation Committee.

PROPOSAL NO. 66, 2008. Introduced by Councillor Vaughn. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Melanie Brizzi to the Crime Prevention Advisory Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 67, 2008. Introduced by Councillors Vaughn and Moriarty Adams. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which appropriates \$240,487 in the 2008 Budget of the Indianapolis Metropolitan Police Department (IMPD, Federal Grants and Non-Lapsing Federal Grants Funds) for reimbursement of overtime for officers assigned to the US Marshal's Fugitive Task Force and for the following initiatives: Community Clergy, Fatal Alcohol Crash Team, Violent Crime Unit; Safe Driver, Walmart Community Policing and the Cold Case Initiative, financed by grants and a transfer between characters"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 68, 2008. Introduced by Councillors Pfisterer and Moriarty Adams. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which appropriates \$322,248 in the 2008 Budget of the Marion Superior Court (State and Federal Grants Fund) to fund contractual computer services for the JAG Technology Initiative; salaries, fringes and contractual services for the Community Court; salaries and fringes for the Drug Treatment Court; contractual services for Family Court; supplies and training registrations for the Juvenile Mental Health Screening and Assessment Pilot Project; salary and fringes for a part-time crew leader on the Community Service Restitution Project, financed by grants from the Indiana Criminal Justice Institute, Indiana Supreme Court, and Indiana State Bar Association and a transfer between characters"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 69, 2008. Introduced by Councillor Moriarty Adams. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an appropriation of \$3,380,000 in the 2008 Budget of the Department of Public Works (Transportation General Fund) to fund the resurfacing design, inspection and construction of the streets used in 2007 as local detour routes for the Super 70 project, financed by reimbursements from the Indiana Department of Transportation"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 70, 2008. Introduced by Councillors Hunter and Moriarty Adams. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an appropriation of \$9,000,000 in the 2008 Budget of the Department of Public Works (Transportation General Fund) to fund the construction of Phases 2 and 3 and the related project design costs for future

phases of the downtown Cultural Trail, funded by a grant from the Central Indiana Community Foundation"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 71, 2008. Introduced by Councillor Speedy. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which approves the Mayor's appointment of Nicholas Weber as Deputy Mayor "; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 73, 2008. Introduced by Councillor Pfisterer. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Christine Scales to the Space Allocation Committee"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 74, 2008. Introduced by Councillor Pfisterer. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Christine Scales to the City-County Administrative Board"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 75, 2008. Introduced by Councillor Plowman. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Larry J. Walker to the Metropolitan Board of Zoning Appeals, Division II"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 76, 2008. Introduced by Councillors Cardwell and Cockrum. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Randolph Snyder to the Metropolitan Development Commission"; and the President referred it to the Metropolitan Development Committee.

### **SPECIAL ORDERS - PUBLIC HEARING**

PROPOSAL NO. 545, 2007. The proposal, sponsored by Councillor Mahern, is a rezoning ordinance for Pike Township, Councilmanic District 7, 4460 Guion Road (2006-ZON-104/2006-DP-004). The proposal was called out for public hearing on December 3, 2007 and was postponed on December 17, 2007 until February 11, 2008.

Councillor Pryor made the following motion:

Mr. President:

Remonstrators and petitioners continue to negotiate a compromise regarding Proposal No. 545, 2007. Therefore, I move that the public hearing on Proposal No. 545, 2007, Rezoning Case 2006-ZON-104 at 4460 Guion Road, be postponed until the April 14, 2008 Council hearing.

Councillor Lutz seconded the motion, and Proposal No. 545, 2008 was postponed until April 14, 2008 by a unanimous voice vote.

PROPOSAL NO. 33, 2008. Councillor Vaughn reported that the Public Safety and Criminal Justice Committee heard Proposal No. 33, 2008 on January 31, 2008. The proposal, sponsored by Councillor Vaughn, approves an increase of \$266,667 in the 2008 Budget of the Marion County Prosecutor (State and Federal Grants Fund) to fund salaries and fringes for staff in the Community Prosecution Division, funded through a grant of Byrne Memorial Funds by the

Indiana Criminal Justice Institute. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

President Cockrum called for public testimony at 7:50 p.m.

Ernie Scherer, citizen, stated that the City cannot afford any more political bickering, and the Council should support the move of IMPD authority to the Mayor. Councillor Brown called for a point of order and stated that Mr. Scherer is speaking to Proposal No. 6, 2008, instead of the current proposal. President Cockrum agreed and asked Mr. Scherer to keep his comments germane to Proposal No. 33, 2008. Mr. Scherer said that the Council should quit simply voting along political lines and do what is right for the City as a whole. Councillor Sanders called for a point of order and stated that Mr. Scherer continues to speak to other matters that are not germane to Proposal No. 33, 2008. President Cockrum agreed and called for further testimony.

Larry Vaughn, citizen, stated that he is concerned about funding programs with grant money, as \$7 million is being cut from grant funding next year. He asked how the City will fund these top-heavy organizations and programs when those grants run out.

There being no further testimony, Councillor Vaughn moved, seconded by Councillor Lutz, for adoption. Proposal No. 33, 2008 was adopted on the following roll call vote; viz:

29 YEAS: Bateman, Brown, Cain, Cardwell, Carson, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lutz, MahernB, MahernD, Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Pryor, Sanders, Scales, Smith, Speedy  
0 NAYS:

Proposal No. 33, 2008 was retitled FISCAL ORDINANCE NO. 1, 2008, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 1, 2008

A FISCAL ORDINANCE amending the City-County Annual Budget for 2008 (City-County Fiscal Ordinance No. 78, 2007) appropriating Two Hundred Sixty-Six Thousand Six Hundred Sixty-Seven Dollars (\$266,667) in the State and Federal Grants Fund for purposes of the Marion County Prosecutor and reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.05 (c) of the City-County Annual Budget for 2008 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Marion County Prosecutor to fund salaries and fringes for staff in the Community Prosecution Division, funded through a grant of Byrne Memorial Funds by the Indiana Criminal Justice Institute.

SECTION 2. The sum of Two Hundred Sixty-Six Thousand Six Hundred Sixty-Seven Dollars (\$266,667) be, and the same is hereby appropriated for the purposes as shown in Section 3 by reducing the unappropriated balance as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

<u>MARION COUNTY PROSECUTOR</u>	<u>STATE AND FEDERAL GRANTS FUND</u>
1. Personal Services	266,667
2. Supplies	0
3. Other Services and Charges	0
4. Capital Outlay	0
TOTAL INCREASE	266,667

SECTION 4. The said additional appropriation is funded by the following reductions:

	<u>STATE AND FEDERAL GRANTS FUND</u>
Unappropriated and Unencumbered	
State and Federal Grants Fund	<u>266,667</u>
TOTAL REDUCTION	266,667

SECTION 5. Matching funds of \$266,667 for this grant will come from 2008 appropriations in the Prosecutor's Deferral Fund. This additional appropriation will pay for the salary and benefits of the following positions: one attorney and three paralegals. These positions are included in the FTE count approved for 2008; no increase in FTE's is required.

SECTION 6. Except to the extent of matching funds approved in the ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the controller are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 7. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

### **SPECIAL ORDERS - UNFINISHED BUSINESS**

PROPOSAL NO. 41, 2008 Councillor Lutz reported that the Rules and Public Policy Committee heard Proposal No. 41, 2008 on February 5, 2008. The proposal, sponsored by Councillors Lutz and Pfisterer, approves the Mayor's establishment of a charter school, "The Indianapolis Project School," by issuing a charter to The Project School, Inc. By a 6-2 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Lutz moved, seconded by Councillor Pfisterer, for adoption.

Councillor Mansfield said that she stands by the comments she made in committee, but has given additional consideration to this project. The community was present at the committee hearing and seemed to embrace it, and therefore, she will support the proposal this evening.

Councillor Nytes stated that she paid special attention to this proposal as it is in her district, located at 22<sup>nd</sup> Street and the Monon. She said that Indianapolis Public Schools (IPS) has been working hard to improve educational choices, and there are many fine schools in this area, with IPS Schools #27, #2, and #56 forming a triangle around this property. She said that she will support the proposal, but she is holding the administration and board accountable for their marketing plan to appeal to children across the City, and not just in this community. She said that she is interested in this approach to education, and it could bring an added choice for students. She said that the funding situation is challenging, but she will support the proposal.

Councillor Dane Mahern said that he will be voting against the proposal. He said that there has not been enough study of the impact the growing number of charter schools is having on IPS. With a stronger administration at IPS, he feels the issuance of charters needs to slow down to give IPS a chance to implement some innovative changes.

Councillor Pfisterer said that even with excellent skills and leadership, charter schools always have the potential to falter. However, there is rigorous follow-up by the Charter Committee, and the charter can be revoked at any time if they are not meeting their goals. She stated that she supports the proposal.

Councillor Malone said that she has a strong reticence regarding charter schools, because she is a proponent of public schools. She said that the 2006-2007 accountability report states that seven

of the 12 did not make adequate yearly progress. She said that this takes tax dollars away from public schools.

Councillor Carson said that while charter schools have many good intentions, he feels alternative teaching models can be incorporated into public schools.

Councillor Coleman said that IPS has similar teaching programs, and he feels supporting this proposal would hurt IPS.

Councillor Sanders said that she is philosophically opposed to charter schools, and is not against this particular group or project. However, she feels this project disproportionately affects an IPS area. IPS is making a difference, and City leaders should give them the opportunity to continue to make a difference.

Councillor Smith said that he has some of the same concerns as those already expressed. He added, however, that he has three children who attend charter schools. Those children have attended both public and private schools, and a different model and approach to teaching can definitely help some children. He said that IPS draws a line or borders on which children can attend which school, based on their address, and some children need alternatives that are not available in their school district. He said that he believes providing alternatives challenges leadership to make IPS better, because people have choices.

Councillor Plowman said that he attended the committee hearing, and said that those involved in this project are former traditional teachers. Someone said that charter schools are not the answer, but he believes charters challenge each other for better results. If the charter does not meet its goals, it can be shut down.

Councillor Speedy said that he was impressed with the competency and passion of those in attendance at the committee. He said that this is a freedom issue and a matter of choice. He said that this will also provide an economic development initiative, as there are 250 vacant lots in this area. He said that he believes charters do challenge IPS, and can probably be credited for some of IPS's improvement.

Councillor McHenry stated that children learn differently, and the progress of each child needs to be measured instead of overall statistics. She said that competition raises the bar, and educators need to look more closely at the individual progress of each child.

Councillor Brown stated that he agrees that Dr. Eugene White is doing great things at IPS, but those who presented this project were passionate about the concept and want to genuinely help children succeed. Therefore, he supports the proposal.

Councillor Cain stated that charter schools are public schools and they need to be viewed as such.

Councillor Hunter said that he shares the concern that the IPS district is being inundated with charter schools, but he feels this particular project has a lot of passion behind it, and he will support it. He urged the administration to look closely at their continued issuance of charters.

Councillor Brian Mahern stated that he supports this proposal because of the merits of this project specifically. He added that they need to watch that charters continue to perform and do not negatively affect other public schools.



Councillor Oliver said that there is a proliferation of charter schools in the IPS district, and this is a collusion to shut down IPS and roll back affirmative action. He said that IPS offers alternative education choices, and this is in direct competition to IPS.

Councillor Bateman said that he shares some of the same concerns, because most charter schools are located in the inner city and the IPS district. He said that closed IPS schools become an eyesore on the community, and he opposes the proposal.

Councillor Pryor stated that children who attend charter or private schools have parents who care about them and want to help them succeed. She said that more emphasis needs to be put on children whose parents do not care to help them get a good education.

Councillor Lutz said that it is important that Councillor Nytes know what is going on in that district and with this project. He said that he also has concerns about the effect of charters on IPS, as he is a fan of Dr. White. He said that there was, however, no hint of collusion among this group during the committee hearing, and this group simply wants what is best for children. He said that this charter was already in the works under former Mayor Bart Peterson, and he urged Councillors to support the project.

Proposal No. 41, 2008 was adopted on the following roll call vote; viz:

*20 YEAS: Brown, Cain, Cardwell, Cockrum, Day, Hunter, Lutz, MahernB, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Pfisterer, Plowman, Pryor, Scales, Smith, Speedy, Vaughn*

*9 NAYS: Bateman, Carson, Coleman, Evans, Gray, MahernD, Malone, Oliver, Sanders*

Proposal No. 41, 2008 was retitled COUNCIL RESOLUTION NO. 14, 2008, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 14, 2008

A PROPOSAL FOR A COUNCIL RESOLUTION approving the Mayor's establishment of a charter school, "The Indianapolis Project School" by issuing a charter to The Project School, Inc.

WHEREAS, the Mayor is authorized by IC 20-24 to issue charters for chartered schools within the Consolidated City; and

WHEREAS, IC 20-24-3-5 requires that a majority of the members of the City-County Council approve the establishment of charter schools prior to the Mayor issuing a charter; and

WHEREAS, the Mayor has announced his intention to issue a charter to The Project School, Inc. for a charter school named "The Indianapolis Project School;" now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. A majority of the members of the City-County Council hereby authorizes the Mayor to establish a charter school, "The Indianapolis Project School" by issuing a charter to The Project School, Inc.

SECTION 2. This resolution shall be in full force and effect from and after adoption.

**SPECIAL ORDERS - FINAL ADOPTION**

PROPOSAL NO. 6, 2008. Councillor Vaughn reported that the Public Safety and Criminal Justice Committee heard Proposal No. 6, 2008 on January 31, 2008. The proposal, sponsored by

Councillors Vaughn, Lutz, Pfisterer, Day, Speedy, McQuillen, Cardwell, Plowman and Brown, amends the Code to establish the Indianapolis Metropolitan Police Department as the police division of the department of public safety and makes corresponding technical corrections. By a 6-2 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Vaughn moved, seconded by Councillor Pfisterer, for adoption.

Councillor Nytes said that this action is not a critical step in the fight on crime and is simply the completion of a campaign promise. She said that the Sheriff is the highest elected crime position in the County, and the public safety director is not elected by the voters. She said that passing this proposal would be an affront to IMPD officers who are working hard to fight crime. She said that the Sheriff knew, because of the makeup of the Council, that this would pass without his cooperation, and therefore has now signed onto it for some remaining control. She said that she believes the last Council got it right to assign those duties to the highest elected public safety official.

Councillor Moriarty Adams stated that the Sheriff is extensively trained in law enforcement, with 47 years experience, which is more than the mayor and public safety director combined. She said that the City needs to be looking at smaller government. A fiscal impact statement was requested in committee, and public safety director Scott Newman said that they were still trying to get numbers. She said that Councillor Sanders wanted to make sure this transition was funded. She said that this is a political power grab, and the matter should be decided by a referendum. There is no evidence that police officers will perform different or better under the mayor.

Councillor Sanders said that the Council is not doing their job as a fiscal body, by making this decision without the fiscal impact statement she requested.

Councillor Oliver said that this proposal will roll back the consent decree and the gain that has been made. He said that he believes some of the language is illegal, with regards to the Juvenile Detention Center being under the Sheriff.

Councillor Coleman said that as a former member of the military, he knows that military personnel often report to people who are not necessarily military. He said that just because a person is not a police officer, it does not mean they cannot manage police officers well.

Councillor Mansfield said that she supported the consolidation from the beginning, and originally did not care who maintained control over the merged police force. She said that IMPD officers are professional and will work hard no matter who they report to. She said that she supports the Sheriff, who has done an outstanding job with the merger and who has entered into an agreement of compromise with the Mayor. She said that she still has reservations about the fiscal impact, and would have preferred that they return the proposal to committee to get that information, but she supports the Sheriff, who now accepts the agreed upon transition.

Councillor Vaughn said that there is no requirement that the Sheriff have any law enforcement training, but there is an ordinance that requires that the chief of police have a background in law enforcement.

Councillor Hunter stated that he feels passionate that community policing is every city department working together. He said that this proposal is not about Sheriff Anderson specifically, but is about implementing every agency working together to reduce crime in the city. There is no evidence that this will roll back the consent decree or affirmative action. He said that

in response to Councillor Sanders' comments in today's newspaper, he ran for office on a platform of integrity and he will vote according to his principles.

Councillor Cardwell stated that he spoke with Sheriff Anderson in person and he applauds him and Mr. Newman working together to find a solution. He said that the public wants to see unity and a focus on fighting crime.

Councillor Dane Mahern said that he will support the proposal since the Sheriff came to an agreement, but wishes a fiscal impact statement was available.

Councillor Brown said that no one is questioning the qualifications of Sheriff Anderson, as he is a good man and well qualified. During the merger discussion, there were hours of meetings where the chambers were full of those who wanted to be heard. The Democrats moved forward with this merger despite some very strong opposition, but due to the people's vote, there is now a new mayor in charge. With that office comes responsibility. The citizens voted, and crime is becoming more rampant. The Council needs to move on and give the mayor this responsibility he desires.

Councillor Pryor asked Scott Newman, director of the Department of Public Safety (DPS), if the fiscal impact statement has been done. She added that the Sheriff made sure every taxpayer complaint was answered, and she asked if Mr. Newman will insure that, as well.

Mr. Newman said that his office will endeavor that every complaint is answered, as that will be the standard. He wants to avoid any comparison between himself, the mayor and Sheriff Anderson. He said that they are simply coming together to fight crime. He said that they have sat at the table with Sheriff's staff every single day for 90 minutes to come up with areas of transfer or shared duties. He said that at the time of the Committee hearing, this was still under review. There is a fiscal impact on each step of the matrix, and the impact is minimal, mostly having to do with moving expenses. They are not forming a new department; Sheriff Anderson has already done that. They are trying to operate within the IMPD budget, and he does not believe they will require extra dollars. He said that there are still some enforcement issues that need to be worked out with the sex offender and violent offender registry because of manpower, but any fiscal issues are related to enforcement more than just added costs. He said that they do not want to provide a fiscal impact statement that would be inaccurate. The atmosphere at the table was extremely positive, and they only just arrived at an agreement, and did not have time to provide the committee with accurate information at that time. He said that there have already been 15 murders this year, four of them children, and they need to just get to work to make Indianapolis a safer place to live.

Councillor Pfisterer stated that she agrees with the accolades for the Sheriff, and this is not about who is in the majority or minority. She said that her constituents are in favor of Proposal No. 6, 2008, and therefore she will support the proposal.

Councillor Brian Mahern said that this is an important issue in his district and there is only one standard, which is what is most for the good of the public. He said that he appreciates the assurances, but without a fiscal impact statement, he cannot support the proposal.

Councillor Plowman stated that this is not an issue with Sheriff Anderson, as he is a great man, but is rather an issue about crime and protecting citizens. He said that there was never anything said about rolling back a consent decree as testified by Councillor Oliver, and this will not be an

issue. He said that IMPD Chief Michael Spears has a lot of experience, and he believes this proposal leads the city in the right direction.

Councillor Moriarty Adams said that she understands an agreement has been reached, but with the numbers the way they are, she believes Sheriff Anderson was left with no choice but to concede, because of the makeup of the Council. She said that there is no requirement that the mayor or director of DPS have any law enforcement experience, but there is a requirement that the Sheriff's chief deputy have such. She believes there would be far more public safety experience under the Sheriff.

Councillor Cardwell stated that one of the most important economic development tools is that public safety is priority one. This is needed for investment in the community. The City needs to show unity and put the focus on fighting crime.

Councillor Nytes said that public safety has been issue number one for several years now and was the reason for the consolidation. She added that the painful increases that were approved to help keep public safety number one cost some their political positions. She added that it should not be suggested that public safety is a new priority, because it has been such for a long time.

Proposal No. 6, 2008, as amended, was adopted on the following roll call vote; viz:

*21 YEAS: Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Hunter, Lutz, MahernD, Malone, Mansfield, McHenry, McQuillen, Pfisterer, Plowman, Pryor, Scales, Smith, Speedy, Vaughn*

*8 NAYS: Bateman, Carson, Gray, MahernB, Moriarty Adams, Nytes, Oliver, Sanders*

Proposal No. 6, 2008 was retitled GENERAL ORDINANCE NO. 2, 2008, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 2, 2008

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to establish the Indianapolis Metropolitan Police Department as the police division of the department of public safety, and to make corresponding technical corrections.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Section 251-101 of the "Revised Code of the Consolidated City and County," regarding the establishment of the department of public safety and its duties, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 251-101. Department of public safety created; duties.**

(a) *Created.* There is hereby created a department of public safety for the consolidated city as provided by IC 36-3-5-4.

(b) *Duties.* It shall be the responsibility of the department of public safety to provide fire protection in the fire special service district, to provide police protection in the consolidated city, to operate an animal control division, provide civil defense and emergency management planning, operate a division of weights and measures and exercise other powers granted by law, the city-county council or the mayor. The department of public safety shall have all powers and duties prescribed for it as of August 31, 1983, subject to IC 36-3-4-23 ~~and further subject to chapter 279 of the Code.~~

SECTION 2. Sections 251-211 and 251-212 of the "Revised Code of the Consolidated City and County," regarding the appointment of the director of the department of public safety and the director's powers and duties, respectively, hereby are amended by the addition of the language that is underscored, to read as follows:

**Sec. 251-211. Appointment of director.**

The chief administrative officer of the department shall be a director, who shall be appointed by the mayor after consultation with the sheriff, and with the approval of the city-county council as required by IC 36-3-5-2. The director is appointed for a term of one (1) year and until his successor is appointed and qualified, but serves at the pleasure of the mayor. The director shall be knowledgeable and experienced in administration or management and have demonstrated an interest in safeguarding the citizens and property of the consolidated city. He shall hold no other lucrative elective or appointive office in city, county or state government during his term of office.

**Sec. 251-212. Powers and duties of director.**

The director of public safety shall have the following duties and powers with respect to the department of public safety:

- (1) To exercise control of all matters and property relating to and connected with the police, fire, emergency management planning, weights and measures, and animal control divisions;
- (2) To coordinate the activities of the department with the sheriff and coroner of the county and any other agencies which can help with the safeguarding of citizens and property throughout the county;
- (3) To purchase all necessary supplies and equipment and make all repairs necessary in the department subject to and in accordance with applicable law;
- (4) To make general and special rules and regulations for the government and discipline of the department, to the extent such duties and powers are not granted to the merit boards of the fire division or police division;
- (5) To fix the number of members and employees of the various divisions;
- (6) To determine and implement policies, procedures, methods and means by which operations are to be conducted;
- (7) To make recommendations to the director of administration relative to civilian employee compensation and benefits;
- (8) To temporarily appoint additional emergency management and civil defense protection forces on application of any person or corporation in any emergency, riot or insurrection as declared by the mayor, which persons the director may remove at any time without hearing or notice or assigning any cause;
- (9) To administer the oath or to take depositions of any persons summoned in any proceedings;
- (10) To adopt rules regulating the giving of a bond of an appointee of any division;
- (11) To appoint deputy or assistant directors as necessary;
- (12) To set work schedules and require members and employees of the department to work overtime;
- (13) To initiate, prepare, submit and administer the department's budget in accordance with applicable law;
- (14) To purchase, rent or improve any real estate or personal property, subject to appropriations therefor by the city-county council and subject to the powers of the mayor and the board of public safety;
- (15) To enter into contracts with town or township firefighting companies or associations for mutual civil aid and assistance programs; for life-saving, firefighting, emergency services, ambulance services; for mutual communications services coordinating training programs; and central dispatching programs in accordance with applicable law;
- (16) To appoint, receive, suspend, discipline and transfer members of the department pursuant to applicable rules, regulations and statutes;
- (17) To supervise and coordinate the activities of divisions within the department;

- (18) To oversee the daily operation of the department;
- (19) To appoint an administrator to be the head of each division of the department, except the emergency management planning division, subject to the approval of the mayor as provided in IC 36-3-5-5;
- (20) To delegate to the personnel employed in the department authority to act in his behalf as provided in IC 36-3-5-5(c);
- (21) To procure for the consolidated city a set of the weights and measures provided in IC 24-6-2-1; and
- (22) Any other powers which may be granted by law or by the mayor or the city-county council.

SECTION 3. Chapter 251, Art. II, Division 1 of the "Revised Code of the Consolidated City and County," regarding the director of the department of public safety, hereby is amended by the addition of a NEW Section 251-214, to read as follows:

**Sec. 251-214. Director; general powers with respect to city police force.**

The director of public safety shall have the following general powers and duties with respect to the police division of the department, along with such other specific powers and duties as may be enumerated in this article or in Chapter 279 of the Code, or as may be granted by the mayor, the city-county council or by law:

- (1) To exercise control of all matters and property relating to and connected with the police division, and to exercise control over all operational functions, including but not limited to dispatch and communications to the extent these functions have not been reserved by statute to a different unit of government, to effectuate these powers and duties;
- (2) To divide the city into geographic areas for administrative and operational purposes;
- (3) To administer and oversee the police division's merit system relating to appointment, transfer, discipline and removal of members and employees of the police division pursuant to applicable rules, regulations and laws in accordance with an established merit system;
- (4) To negotiate settlements or agreements with member representatives relating to compensation and benefits;
- (5) To make recommendations to the director of administration relating to employee compensation and benefits;
- (6) To temporarily appoint additional police on application of any person or corporation in any emergency, riot or insurrection as declared by the mayor; the director may remove persons so appointed at any time without hearing or notice or assigning any cause;
- (7) To fix the number of employees and members of the police division;
- (8) To make general and special rules and regulations for the administration and discipline of the police division, to the extent such duties and powers are not granted to the merit board;
- (9) To determine and implement policies, methods and means by which operations are to be conducted; and
- (10) To consult with the sheriff and coordinate activities of the police division with the sheriff and the coroner of the county.

SECTION 4. Section 251-221 of the "Revised Code of the Consolidated City and County," regarding the divisions of the department of public safety, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 251-221. Divisions.**

The department of public safety shall be composed of the following divisions:

- (1) *Fire division.* The duties and powers of the fire division are described in Chapter 252 of this Code.

- (2) Police division. The duties and powers of the police division are described in Chapter 279 of this Code.
- (23) Weights and measures division. The duties and powers of the weights and measures division are described in article V of this chapter.
- (34) Animal care and control division. The animal care and control division shall be established and have all powers and duties described in article III of this chapter, chapter 531, and any other powers granted by law or by the city-county council or the mayor.
- (45) Emergency management planning division. The duties and powers of the emergency management planning division are described in article IV of this chapter.

SECTION 5. Section 251-604 of the "Revised Code of the Consolidated City and County," regarding the law enforcement authority of special police officers, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 251-604. Law enforcement authority.**

The special police officers are subject to the authority of the ~~sheriff~~ director of the department of public safety and chief of the metropolitan law enforcement agency. They shall obey all rules, regulations and orders of such agency as they apply to the specific powers granted by the director ~~of the department of public safety~~.

SECTION 6. Sections 279-101, 279-102, and 279-103 of the "Revised Code of the Consolidated City and County," regarding the definition of terms in Chapter 279, the establishment and jurisdiction of the metropolitan law enforcement agency, and the transfer of members from other agencies, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 279-101. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

~~Advisory committee means the metropolitan law enforcement consolidation transition advisory committee established by section 279-203 of this chapter.~~

Advisory council means the metropolitan law enforcement advisory council ~~that may be~~ established pursuant to section ~~279-205~~ 279-201 of this chapter.

~~Authority means the metropolitan law enforcement consolidation transition authority established by section 279-201 of this chapter.~~

Board means the metropolitan law enforcement merit board established by section 279-232 of this chapter.

Chief means the chief of the metropolitan law enforcement agency appointed under section 279-221 of this chapter.

~~Director means the executive director of the transition advisory committee appointed by the authority pursuant to section 279-202 of this chapter.~~

Metropolitan law enforcement agency or agency means the ~~consolidated law enforcement department referenced in Senate Enrolled Act 307 of the 2005 Regular Session of the Indiana General Assembly (P.L. 227-2005)~~ and the metropolitan law enforcement agency Indianapolis Metropolitan Police Department, as established by section 279-102 of this chapter.

~~Metropolitan law enforcement steering committee means the metropolitan law enforcement steering committee established by section 279-205 of this chapter.~~

Sheriff's department means the Marion County Sheriff's Department.

**Sec. 279-102. Establishment and jurisdiction.**

(a) The metropolitan law enforcement agency is established effective January 1, 2006 through the consolidation of the Indianapolis Police Department and the county police force of the sheriff's department as authorized by IC 36-3-1-5.1, and as provided by this chapter. The agency constitutes:

- (1) The legal successor-in-interest to both the Indianapolis Police Department and the county police force of the sheriff's department; and
- (2) The police division of the city department of public safety.
- (b) ~~Effective January 1, 2006, the Indianapolis Police Department and county police force of the sheriff's department shall coordinate their financial and purchasing operations through the metropolitan law enforcement agency. The two (2) departments may collaborate regarding information technology, personnel and administration as they deem appropriate and beneficial to the public.~~
- (eb) The metropolitan law enforcement agency shall provide law enforcement services for the consolidated city effective January 1, 2007, ~~through the consolidation of the Indianapolis Police Department and the county police force of the sheriff's department as authorized by IC 36-3-1-5.1, and as provided by this chapter. As such, the agency constitutes the legal successor in interest to both the Indianapolis Police Department and the county police force of the sheriff's department.~~ The agency may provide law enforcement services in an excluded city as provided in IC 36-1-7.
- (d) ~~The sheriff, through his appointed chief, shall have exclusive responsibility for the day-to-day operations of the agency.~~

**Sec. 279-103. Transfer of members from other departments; effect on length of service and participation in pension plans; and assumption of labor agreements.**

- (a) After December 31, 2006:
  - (1) Members of the Indianapolis Police Department cease employment with the consolidated city; and
  - (2) County police officers cease employment as county police officers; and become members of the metropolitan law enforcement agency under this chapter.
- (b) For purposes of this chapter, whenever a certain length of service with the agency is required for a particular appointment, a member of the agency with service as a member of the Indianapolis Police Department or a county police officer with the sheriff's department before January 1, 2007, shall have that service included in determining the member's total length of service with the agency.
- (c) As provided in IC 36-3-1-5.1, a member whose employment transfers to the agency under this section:
  - (1) Remains a member of the pension fund, or an employee beneficiary of the pension trust in which the member participated prior to January 1, 2007;
  - (2) Retains pension fund or pension trust benefits and credit for service earned that accrued prior to January 1, 2007; and
  - (3) Continues to earn service credit in the pension fund or pension trust as a member of the agency for purposes of determining the member's eligibility for benefits.
- (d) With respect to agreements with labor organizations, the agency shall assume all such agreements that:
  - (1) Are in effect on the effective date of the consolidation; and
  - (2) Apply to employees of either the Indianapolis Police Department or the sheriff's department and whose employment transfers to the agency under this section.
- (e) Members of the metropolitan law enforcement agency may not be assigned to divisions of the sheriff's department. Provided, however, at the sheriff's discretion, county police assigned to non-law enforcement divisions within the department on December 31, 2006, may continue such assignments through December 31, 2010. The agency shall charge the department for the costs, including wages and benefits, associated with such a temporary assignment. Such employees shall not hold any rank in the agency higher than their permanent rank during such temporary assignment.
- (f) The chief, with the approval of the ~~sheriff~~ director of the department of public safety, shall endeavor to assign and maintain members of the agency in a manner to achieve the goal of proportional representation of former police officers and sheriff's deputies throughout the divisions and appointed ranks of



the agency, including disciplinary board of captains appointments provided in subsection 279-237(j), through December 31, 2010.

SECTION 7. Sections 279-201 through 279-206, of the "Revised Code of the Consolidated City and County," inclusive, regarding the metropolitan law enforcement consolidation transition entities, hereby are REPEALED; however Section 279-207 of the "Revised Code of the Consolidated City and County," regarding the law enforcement advisory council, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. ~~279-207~~ 279-201. Law enforcement advisory council.**

(a) The law enforcement advisory council is hereby established pursuant to subsection 279-206(e) ~~shall include, at a minimum, and shall be composed of~~ the following members:

- (1) The sheriff;
  - (2) One (1) member appointed by the mayor;
  - (3) Two (2) members appointed by the city-county council, who may not be from the same political parties;
  - (4) One (1) member with public safety expertise, appointed as provided by the city-county council;
  - (5) One (1) member with management expertise, appointed as provided by the city-county council;
  - (6) One (1) member with expertise in municipal finance and budgeting, appointed as provided by the city-county council; and
  - (7) The public safety director.
- (b) The advisory council shall have, at a minimum, the following duties and responsibilities:
- (1) Review planning and operations of the agency;
  - (2) Review relevant fiscal matters;
  - (3) Receive citizen input;
  - (4) Make recommendations to the ~~sheriff~~ public safety director and chief on matters of priority and policy; and
  - (5) Exercise all powers necessary, convenient, or appropriate to perform the duties listed in subdivisions (1) through (4) of this subsection.
- (c) The advisory council is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.
- (d) Four (4) members of the advisory council constitute a quorum for the transaction of business.
- (e) The advisory council shall hold regular meetings at least once a month.

SECTION 8. Section 279-221 of the "Revised Code of the Consolidated City and County," regarding the appointment, qualifications, powers, and duties of the metropolitan law enforcement agency chief, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 279-221. Appointment and qualifications of chief; powers and duties.**

(a) The metropolitan law enforcement agency shall be under the direction of a chief, who serves at the pleasure of the ~~sheriff~~ director of the department of public safety.

(b) The ~~sheriff~~ director of the department of public safety shall appoint the chief of the metropolitan law enforcement agency, after consultation with the sheriff and subject to city-county council confirmation and approval by the mayor. ~~The initial chief under this subsection shall be the Chief of the Indianapolis Police Department who shall be appointed chief of the metropolitan law enforcement agency beginning January 1,~~

~~2007. The chief shall serve at the pleasure of the sheriff public safety director. Members appointed~~ The chief, after consultation with the sheriff, shall appoint members to the rank of assistant chief, deputy chief, district deputy chief or equivalent positions, and shall be presented present them in person by the chief to the sheriff and to the city-county council's public safety and criminal justice committee annually.

(c) In order to qualify for appointment, the chief must meet the requirements under IC 36-8-4-6.5.

(d) If a person was a member of the metropolitan law enforcement agency before the person's appointment as the chief of the metropolitan law enforcement agency, upon the expiration of the person's term as chief, the board shall appoint the person to the permanent rank in the agency that the person held at the time of the person's appointment as chief.

(e) If the person, during the person's tenure as chief, has qualified, in accordance with the promotion procedure prescribed by the board in its rules, for a rank in the agency that is higher than the rank the person held before the person's appointment as chief, the board shall, upon the expiration of the person's term as the chief, appoint the person to the rank for which the person has qualified under the promotion procedure, if there is a vacancy in that rank.

(f) The chief shall have the powers and duties assigned to him or her in this chapter, and as otherwise provided by law. Specifically, the chief shall be responsible for establishing a system of orders and procedures for the agency, hiring and discipline as provided by the merit system, and day-to-day operations of the agency.

(g) The chief is hereby designated to serve as the co-applicant for a warrant or an extension of a warrant under IC 35-33.5-2.

SECTION 9. Sections 279-223 through 279-227, inclusive, of the "Revised Code of the Consolidated City and County," regarding the metropolitan law enforcement agency members' appointment, powers, duties, budget, salaries, expenses, uniforms, civilian employees, and eligibility for take-home cars, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 279-223. Members' powers and duties.**

(a) Each member of the metropolitan law enforcement agency has:

(1) The powers set forth in IC 36-8-3-6; and

(2) The powers set forth in IC 36-8-10-9 that are not set forth in IC 36-8-3-6 and that are not reserved to the sheriff under Section 281-612 of the Code.

(b) The members of the metropolitan law enforcement agency shall perform law enforcement duties as assigned by the ~~sheriff~~ director of the department of public safety or as required by law.

**Sec. 279-224. Budget and salaries; provision for payment of expenses.**

(a) The expenses of the metropolitan law enforcement agency are a part of the ~~sheriff's department's department of public safety's~~ budget. ~~Subject to review by the authority or advisory council, whichever is in existence at the time,~~ The chief, with the approval of the ~~sheriff~~ sheriff public safety director, shall recommend the number and salary of the members of the metropolitan law enforcement agency, but the city-county council shall finally determine the budget and salaries of the agency.

(b) The consolidated city, the police special service district, and the county may levy property taxes as provided by law to provide for the payment of the expenses for the operation of the agency.

**Sec. 279-225. Uniforms.**

The ~~county~~ city shall furnish the ~~sheriff and the~~ members of the agency with the uniforms or other clothing that they need to perform their duties. However, after one (1) year of service in the agency, a member may be required by the ~~county~~ city to furnish and maintain the member's own uniform or other clothing upon payment to the member by the county of an annual cash allowance.

**Sec. 279-226. Civilian employees.**

(a) The metropolitan law enforcement agency shall make maximum use of civilian employees in positions not requiring fully trained or empowered police officers. The board shall prescribe and promulgate

such rules and regulations as it deems necessary concerning the employment and management of such civilians. The chief, subject to the approval of the ~~sheriff~~ director of the department of public safety, shall be responsible for the hiring and supervision of all civilian employees of the agency.

(b) All civilian employees of the agency, other than those in appointive positions, shall be considered merit employees. All civilian personnel management programs shall be administered in accordance with the merit systems outlined in division 3 of this article.

(c) All civilian employees shall serve as probationers for one (1) year from the date of employment. During this time, the employment of such employee may be terminated by the chief with or without cause, and such termination shall be final and not subject to review. If his or her employment is not otherwise terminated, such employee shall become a regular employee at the end of one (1) year and is subject to termination or discipline thereafter in conformity with the agency's rules and regulations ~~adopted by the authority~~.

**Sec. 279-227. Eligibility for take-home cars; ~~restricted use~~.**

~~Effective January 1, 2007, e~~Eligibility to participate in the take-home car program shall be determined in compliance with ~~the established policy, established by the authority pursuant to section 279-202 of the Code as the same may be amended from time to time by the sheriff director of the department of public safety after the authority is dissolved pursuant to section 279-206 of the Code. Prior to January 1, 2007, eligibility to participate in the take-home car program, if any, shall be determined in compliance with existing policies of the Indianapolis Police Department or sheriff's department, whichever is applicable.~~

SECTION 10. Sections 279-233 through 279-237, inclusive, of the "Revised Code of the Consolidated City and County," regarding the metropolitan law enforcement agency merit board and merit system, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 279-233. Appointment or election of board members; qualifications.**

(a) The board consists of seven (7) members as follows:

- (1) Four (4) members appointed by the ~~sheriff~~ director of the department of public safety;
- (2) For the first term of the board, one (1) member appointed by the metropolitan law enforcement consolidation transition authority;
- (3) For all subsequent terms of the board, one (1) member appointed by the ~~authority or advisory council, whichever is in existence at the time~~ city-county council; and
- (4) Two (2) members elected by a majority vote of the active members of the agency.

(b) An active member of the metropolitan law enforcement agency may not serve on the board.

(c) The term of office for an appointed or elected member of the board is four (4) years, beginning on the date the member is qualified and assumes office, or for the remainder of an unexpired term. Members of the board serve during their respective terms and until their successors have been appointed and qualified.

(d) Not more than:

- (1) Two (2) of the members appointed by the ~~sheriff~~ public safety director; or
- (2) One (1) of the members elected by the members of the metropolitan law enforcement agency;

may belong to the same political party.

(e) Each member of the board must reside in the county.

(f) Each member of the board may be removed for cause duly adjudicated by declaratory judgment of the Marion Superior Court.

(g) Each member of the board is entitled to receive reimbursement from the county for actual expenses incurred while serving as a member.

(h) As soon as practicable after they are appointed and elected, the members of the board shall meet upon the call of the ~~sheriff~~ public safety director and organize by electing a president and a secretary from among their membership.

(i) ~~Five (5)~~ Four (4) members of the board constitute a quorum for the transaction of business.

(j) The board must hold regular monthly meetings throughout the year as is necessary to transact the business of the metropolitan law enforcement agency.

**Sec. 279-234. Classification of ranks, grades and positions; appointment of members.**

(a) The ~~authority or advisory council, whichever is in existence at the time,~~ board shall establish a classification of ranks, grades, and positions for members of the metropolitan law enforcement agency. For each rank, grade, and position, the chief, with the approval of the board, shall:

- (1) Set reasonable standards of qualifications; and
- (2) Fix the prerequisites of training, education, and experience.

(b) An individual may not be appointed or reappointed as a member of the metropolitan law enforcement agency after December 31, 2006, unless the individual:

- (1) Is less than thirty-six (36) years of age; and
- (2) Passes:
  - a. The aptitude, physical agility, and physical examination required by the local board; and
  - b. The statewide baseline standards required by IC 36-8-8-19; however, this subsection does not apply to an individual who becomes a member of the metropolitan law enforcement agency under section 279-103 of this chapter.

(c) The chief, with the approval of the board, shall devise and administer examinations designed to test applicants for the qualifications required for the respective ranks, grades, or positions. After these examinations, the chief and the board shall jointly prepare a list naming only those applicants who, in the opinion of both the chief and the board, best meet the prescribed standards and prerequisites. The chief only appoints members of the metropolitan law enforcement agency from among the persons whose names appear on this list. All members appointed to the metropolitan law enforcement agency under this chapter are on probation for one (1) year after the date of appointment.

(d) The chief, in his or her sole discretion, may:

- (1) Establish a temporary administrative rank or position within the agency; and
- (2) Appoint to and remove from a temporary administrative rank or position a member of the metropolitan law enforcement agency who meets the requirements in subsection (e) of this section.

(e) Except as provided by sections 279-103 and 279-104 of this chapter, a member who has served as a member of the agency at least five (5) years before the appointment and holds the merit rank of at least lieutenant is eligible for appointment to a temporary administrative rank or position described in subsection (d) of this section. A member retains the rank, grade, or position awarded under subsection (c) of this section while serving in a temporary administrative rank or position. A temporary administrative rank or position established under subsection (d) of this section does not diminish or reduce the number and classifications of the existing merit ranks within the metropolitan law enforcement agency. Subsection (d) of this section and this subsection may not be construed to limit, modify, annul, or otherwise affect a collective bargaining agreement.

**Sec. 279-235. Preferences for employment, promotions and appointments.**

(a) Except as provided in subsections (b) and (c) of this section, the board shall give a preference for employment to a war veteran who has been honorably discharged from the United States Armed Forces.

(b) The board shall establish process phases and procedures for use in screening applicants to the department and members seeking promotion or appointment within the department. The board and the chief may use the services of professional consultants from outside the department to assist in developing and administering the process. The process phases shall be established in conformity with standard psychometric

procedures, federal and state guidelines relating to selection methods, equal employment opportunity laws, court decisions and decrees ~~now that are~~ binding on either the Indianapolis Police Department or the Marion County Sheriff's Department on the original effective date of this section, and generally acceptable law enforcement standards. The process may include, but need not be limited to, such phases as preliminary screening, physical agility testing, written examinations, interviews, background investigations, psychological testing, medical examinations, and polygraph examinations related specifically to the application process.

(c) A person described in subsection (a) of this section may not receive a preference for employment unless the person applies for such employment, and meets all employment requirements prescribed by:

- (1) Law, including physical and age requirements; and
- (2) The metropolitan law enforcement agency.

**Sec. 279-236. Rules and regulations.**

The ~~authority or advisory council, whichever is in existence at the time,~~ board shall establish written rules and regulations governing the discipline of members of the metropolitan law enforcement agency. Rules and regulations established ~~by the authority~~ under this section must conform to the disciplinary procedure required by section 279-237 of this chapter.

**Sec. 279-237. Discipline; merit board procedures and appeals.**

(a) The civilian police merit board of the metropolitan law enforcement agency shall establish disciplinary policies for use in all disciplinary matters of the agency. The merit board, in conjunction with the chief, subject to approval of the ~~sheriff~~ director of the department of public safety, shall establish the rules and regulations for the agency. All disciplinary charges shall be based on these rules and regulations.

(b) Disciplinary actions within the agency shall be in one (1) of the following forms:

- (1) Written reprimand;
- (2) Suspension without pay;
- (3) Demotion;
- (4) Discharge.

(c) An officer may be placed on leave with pay for up to thirty (30) calendar days by the chief pending determination of final disciplinary action. Such leave with pay shall be considered a duty status and not a punishment.

(d) The chief shall have the ultimate authority to discipline any member of the agency, subject only to the restrictions outlined below. In making his determination, the chief may refer the matter to a disciplinary board of captains for recommendation. Following his determination in a disciplinary matter, the chief may:

- (1) Issue a written reprimand.
- (2) Suspend an officer without pay for up to six (6) calendar months. If the suspension is for more than ten (10) working days, the officer may appeal that portion of the suspension greater than ten (10) days to the merit board. Such appeal must be made within thirty (30) calendar days of notice of the action.
- (3) Demote the officer in rank by one (1) merit rank. Any demotion may be appealed to the merit board within thirty (30) calendar days of notice of action.
- (4) Recommend discharge of the officer to the merit board. Upon referral of the matter to the merit board, the merit board shall conduct a de novo administrative hearing of record as provided in subsection (k) of this section. Pending determination by the merit board, the officer shall be placed on suspension without pay.
- (5) Reinstate with pay any officer who previously was suspended without pay.

Provided, however, that the chief shall consult with the ~~sheriff~~ director of the department of public safety regarding any discipline exceeding a ten (10) day suspension.

(e) Departmental superiors shall have the authority to discipline subordinate officers as outlined below. However, these superiors may recommend any of the above disciplinary actions to the chief through the chain of command.

- (1) The assistant chief, deputy chiefs and majors may: ~~(1)~~ issue a written reprimand or ~~(2)~~ suspend an officer for not more than ten (10) working days without pay. The chief may delegate additional disciplinary authority to the assistant and deputy chiefs.
- (2) Captains may: ~~(1)~~ issue a written reprimand or ~~(2)~~ suspend an officer for not more than three (3) working days without pay.
- (3) Lieutenants may: ~~(1)~~ issue a written reprimand or ~~(2)~~ suspend an officer for not more than two (2) working days without pay.
- (4) Sergeants may: ~~(1)~~ issue a written reprimand or ~~(2)~~ suspend an officer for one (1) working day without pay.

(f) Officers in non-merit appointed ranks who are classified by the agency as exempt executive, administrative or professional employees pursuant to the provisions of the Fair Labor Standards Act are not subject to unpaid disciplinary suspensions other than for violations of safety rules of major significance unless the suspension is for the period of an entire workweek or a specified number of full workweeks.

(g) All disciplinary actions taken by anyone except the chief shall be forwarded in writing to the disciplinary board of captains through the chain of command within three (3) working days of the action. The disciplinary board of captains shall ensure due process and consistency of discipline throughout the department. This disciplinary board may conduct an administrative review of the matter, request further investigation by internal affairs or other appropriate personnel, or hold a hearing on the matter.

(h) If a hearing is held by the disciplinary board of captains, the officer charged shall be notified in writing of the charges, ~~and the time and date of the hearing, and the officer's right to receive in advance of the hearing a copy of any witness statement or other document that will be considered at the hearing.~~ In such hearings, and pursuant to departmental policy, the officer shall have the right to have counsel present and to have witnesses subpoenaed by the board of captains to testify in his or her behalf upon advance notice to the board. All testimony before the captains' board shall be under oath, and any individual appearing before the board shall cooperate fully and answer all questions truthfully and directly. The hearing before the captains' board shall be conducted in accordance with the written directives of the chief and the merit board. After the hearing, the board of captains shall, upon majority vote, reduce to writing its findings of either guilty or not guilty.

(i) The disciplinary board of captains shall report the results of its review and/or hearing to the chief for determination. Included in this report shall be the disciplinary board's findings and recommendations. If the finding is "guilty," the disciplinary board shall also make its recommendations for punishment. The chief may concur with the captain's board in full or in part or may fully or partially reverse its recommendations.

(j) The disciplinary board of captains shall consist of three (3) officers holding the permanent merit rank of captain, who shall serve for a period of three (3) months. Each captain shall be selected at random. The names of the captains shall be drawn from a list of all eligible captains by the police officer ranking first on the most current sergeant's promotion list who shall serve for a period of three (3) months and who shall then be succeeded by the next highest ranking officer on such list who shall serve for a three-month period and so forth. If a vacancy occurs on the board of captains by reason of a board member becoming unable to perform his duties and serve on such board, the vacancy shall be filled in the same manner in which the board was selected.

(k) Disciplinary actions addressed by the merit board on appeal from the officer shall be handled through administrative hearing. This hearing shall be de novo and shall be a hearing of record. In making an appeal, the officer shall submit a written request for appeal to the merit board within thirty (30) calendar days of notice of disciplinary action. The merit board then shall schedule the hearing, providing the officer with at least fifteen (15) calendar days' notice prior to the hearing date; however, if there are criminal charges pending against the officer that arose from substantially the same conduct, circumstances, or subject matter that gave rise to the disciplinary action, then the merit board shall not conduct the hearing until after such criminal charges have been resolved at the trial level. The evidence before the merit board shall consist of the written charges and action taken on such charges, the findings of fact and recommendations from the chief and/or the disciplinary board of captains, and any other evidence requested by the merit board or presented by the charged officer.

(l) The officer requesting an appeal and the chief may be represented by legal counsel before the merit board.

(m) After hearing the evidence, the merit board shall, by majority vote, reduce its findings and decision to writing. The merit board may fully or partially affirm or reverse any portion of the chief's determination which is appealable. In addition, the merit board may remand the action for further review by the chief.

(n) If the officer is found not guilty by the merit board, any pay he or she may have lost due to suspension, or any rank lost due to demotion, shall be returned to the officer.

(o) Any officer who disagrees with the findings of the merit board shall have the right to file a verified petition to the Superior or Circuit Court of Marion County for a review of the decision. The petition for review must be filed within thirty (30) calendar days after the written decision of the board. The City of Indianapolis shall be the sole defendant in the petition for review. Within thirty (30) calendar days after receipt of a summons, the city shall cause the merit board to file a true and complete copy of the transcript of the hearing with the court. The court, without jury, shall review the record and render its decision as in other administrative reviews. The clerk of the court shall send a copy of the court's decision to the metropolitan law enforcement agency and the appealing officer. Either party may appeal the decision of the court.

(p) For the purpose of all hearings before the disciplinary board of captains and the merit board, each shall have subpoena power enforceable by the circuit or superior court of the county.

(q) A copy of any disciplinary action taken and of the findings of fact and recommendations of the board shall be forwarded to the charged officer. In addition, if an officer is found guilty, notice of the action shall be forwarded to the merit board and made a permanent part of the officer's personnel record.

SECTION 11. Section 279-244 of the "Revised Code of the Consolidated City and County," regarding county payment for injury or illness, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, and renumbered as a section in Chapter 281, Art. VI, regarding the Sheriff, to read as follows:

**Sec. ~~279-244~~ 281-613. County payment for injury or illness.**

(a) As used in this section, *care* means and includes:

- (1) Medical and surgical care;
- (2) Medicines and laboratory, curative, and palliative agents and means;
- (3) X-ray, diagnostic, and therapeutic service, including service during the recovery period; and
- (4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(b) After deducting expenditures paid by an insurance or worker's compensation program, the county shall pay for the care of ~~the following persons:~~ a jail employee who suffers an injury or contracts an illness while the employee is on duty.

- ~~(1) A member of the metropolitan law enforcement agency who suffers an injury or contracts an illness while the member is on duty or while the member is off duty and is responding to an offense or a reported offense; and~~
- ~~(2) A jail employee who suffers an injury or contracts an illness while the employee is on duty.~~

(c) The county shall pay the expenditures required by subsection (b) of this section from the general fund of the county.

SECTION 12. Sections 279-254, 279-255, and 279-256 of the "Revised Code of the Consolidated City and County," regarding metropolitan law enforcement agency reserves' uniforms, appointment, police powers, retirement and termination, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 279-254. Chief to design and establish uniform; unlawful representation as member.**

(a-) All manner of uniform, badge, insignia, equipment and other identifying characteristics of the reserves shall be designed ~~an~~ and established by the chief, subject to the approval of the ~~sheriff~~ director of the department of public safety.

(b-) It shall be unlawful and punishable in accordance with section 103-3 of this Code for a person to wear such uniform, badge or insignia of the reserves, or hold himself or herself out to be a member of the reserves, unless that person has been duly appointed and sworn as provided by this division.

**Sec. 279-255. Appointment; members not to belong to regular police force; conferral of police powers.**

Appointment to the reserves shall be made by the chief. Members of the reserves may not be members of any regular police force. Members of the reserves shall have the same police powers as regular members of the metropolitan law enforcement agency pursuant to ~~IC 36-8-10-9~~ Section 279-223 of the Code, subject to such limitations as the chief may establish by adopting rules and regulations governing the same, subject to the approval of the ~~sheriff~~ director of the department of public safety.

**Sec. 279-256. Mandatory retirement age; termination procedure.**

(a-) Members of the reserves may serve from their appointment until reaching the mandatory retirement age of seventy (70) years, or until terminated pursuant to subsection (b) of this section.

(b-) Any member of the reserves may be terminated by the chief for any reason after consultation with the ~~sheriff~~ director of the department of public safety.

SECTION 13. Section 281-612 of the "Revised Code of the Consolidated City and County," regarding responsibilities of the Marion County sheriff's department, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 281-612. Responsibilities.**

(a) The sheriff's department shall be responsible for ~~providing all of the following~~ those facilities and functions for the consolidated city and the county under the direction and control of the sheriff; as provided in IC 36-3-1-5.1.

- (1) ~~County jail operations and facilities;~~
- (2) ~~Emergency communications;~~
- (3) ~~Security for buildings and property owned by the consolidated city, the county, or both the consolidated city and county;~~
- (4) ~~Service of civil process and collection of taxes under tax warrants;~~
- (5) ~~Pursuant to IC 33-24-5-2, execution of the orders of the court, and all criminal process issued out of the court; and~~
- (6) ~~Sex offender registration.~~

(b) ~~The sheriff shall have those powers and duties with respect to the metropolitan law enforcement agency as provided for the sheriff in chapter 279 of the Code.~~

SECTION 14. Chapter 281, Art. VI, Division 3 of the "Revised Code of the Consolidated City and County," regarding the citizens' police complaint process, hereby is recodified as a NEW Division 3 of Chapter 251, Art. I, and is further amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**DIVISION 3. CITIZENS' POLICE COMPLAINT PROCESS**

**Sec. ~~281-631~~ 251-131. Citizens' police complaint office established.**

(a) The citizens' police complaint office is established as part of the ~~sheriff's~~ department of public safety. Any complaint of a citizen against an officer of the ~~metropolitan law enforcement agency Indianapolis Metropolitan Police Department~~ alleging that the officer used profane and abusive language or intentionally



destroyed or damaged real or personal property, exceeded his/her authority as a police officer, used unauthorized force, or acted in violation of the ~~agency's~~ Department's rules and regulations or orders may be filed with the citizens' police complaint office. In addition, if a complainant alleges that intimidation tactics are being used to impede the filing of a complaint, the complainant shall report this to the complaint office and a separate complaint will be filed regarding the new information. Each complaint shall be filed within sixty (60) days of the action giving rise to the complaint, shall be in writing, and shall be signed by the person making the complaint, who shall affirm under the penalties of perjury that the representations contained therein are true. The complaint may be filed in person or by facsimile or through the mail. Additionally, complaints may be filed after the expiration of the sixty-day time period where the person making the complaint was under a legal disability during the sixty-day time period or where, upon a showing of good and sufficient cause and upon majority vote of the citizens' police complaint board, a person is permitted to belatedly file a complaint.

(b) Any individual personally aggrieved by the act or acts complained of may file a complaint. A parent or guardian may file a complaint on behalf of a minor or incompetent individual. A member of the immediate family of a decedent may file a complaint on behalf of the decedent. The complaint board may, upon two-thirds ( 2/3) vote of its members, initiate an action.

(c) The complaint process shall be accessible to all citizens regardless of race, national origin, ancestry, religion,  ~~creed~~, color, sex, sexual orientation, gender identity, age, language,  ~~or~~ disability, or United States military service veteran status.

**~~Sec. 281-632. Complaint board established; appointment of members; terms.~~**

(a) ~~The law enforcement consolidation transition authority established by section 279-201 shall make recommendations to the city-county council regarding the composition of the citizens' police complaint board.~~

(b) ~~The complaint board members shall be representative of the citizens served by the metropolitan law enforcement agency.~~

(c) ~~The council shall act upon the authority's recommendations and make appropriate amendments to the ordinances to specify the membership, terms and manner of appointment to the citizens' police complaint board.~~

(d) ~~Until such time as the actions set forth in subsections (a) through (c) of this section are taken, the citizens' police complaint board existing within the Indianapolis police department shall remain in effect and shall consider complaints against officers of the metropolitan law enforcement agency. Such board shall disband upon the appointment of members to the citizens' police complaint board established in this section.~~

**~~Sec. 281-633~~ 251-132. Citizens' police complaint board established; election process; terms; quorum.**

(a) ~~Members.~~ ~~There shall be established a~~ The citizens' police complaint board is established, and shall be composed of nine (9) voting members, two (2) ex-officio, nonvoting police advisory members, and one (1) ex-officio, nonvoting rank-and-file consulting member to be selected as follows:

- (1) All voting members shall be citizens who are residents of the ~~police special service district consolidated city~~. No sworn law enforcement officer is eligible to serve as a voting member of the board. Voting members may be selected from nominees submitted by the ~~five (5)~~ six (6) Indianapolis Metropolitan Police Department district task forces which are convened by the deputy chief of each district. Exception can be that in the event a vacancy is not or cannot be filled in a timely manner per the provisions of this ~~article~~ division, the original appointing body may make the appointment using its normal process for making appointments. No district task force may nominate more than three (3) candidates for appointment to the board. There must be at least one (1) voting member from each Indianapolis Metropolitan Police Department district task force on the citizens' police complaint board, with no more than three (3) from any one district.
- (2) ~~Five (5)~~ Six (6) of the members shall be appointed by the city-county council. ~~At least two (2)~~ No more than four (4) of these ~~five (5)~~ six (6) members ~~must may~~ must be of a ~~different~~ the same political party. Two (2) of these members shall serve for a one-year term ending December 31, ~~1998~~ 2008, two (2) of these members shall serve for a two-year term ending December 31, ~~1999~~ 2009, and ~~one (1)~~ two (2) of these members shall serve for a three-year term ending December 31, ~~2000~~ 2010, or until their successors are appointed and confirmed, but for no longer than sixty (60) days beyond the expiration of their term.

- (3) ~~Four (4)~~ Three (3) of the members shall be appointed by the mayor. One (1) of these members shall serve for a one-year term ending December 31, ~~1998~~ 2008, one (1) of these members shall serve for a two-year term ending December 31, ~~1999~~ 2009, and ~~two (2)~~ one (1) of these members shall serve for a three-year term ending December 31, ~~2000~~ 2010, or until their successors are appointed and confirmed, but for no longer than sixty (60) days beyond the expiration of their term.
- (4) Upon the expiration of any voting member's term, an appointment will be made to his position by the original appointing body, for a term of three (3) years. Each member may be reappointed to a three-year term, but may serve no more than two (2) consecutive terms on the board, including the board established by Section 251-132 (repealed). If a member is unable to complete his/her term for any reason, the original appointing body shall appoint a new member to complete the term. Such new member shall then be eligible to be reappointed for no more than one (1) additional full consecutive term, if he/she has served eighteen (18) months or more of the original term, and no more than two (2) additional full consecutive terms, if he/she has served less than eighteen (18) months of the original term.
- (5) The two (2) ex-officio, nonvoting police members of the board shall be appointed as follows: one (1) by the mayor; and, one (1) by the city-county council ~~and~~. Such members shall serve two-year terms ending on December 31, ~~1999~~ in even-numbered years, and. ~~The officers appointed shall:~~
- a. Have been members of the Indianapolis Police Department, the county police force of the Marion County Sheriff's Department, the Indianapolis Metropolitan Police Department, or any combination thereof, for more than (7) years;
  - b. ~~Shall have~~ Have participated in ethics training;
  - c. Have strong community relations experience;
  - d. Be of the rank of sergeant or below in rank, preferably a patrolman; and
  - e. ~~Shall not~~ Not serve more than two (2) consecutive terms on the board, including the board established by Section 251-132 (repealed).
- (6) The one (1) ex-officio, nonvoting rank-and-file consulting member shall be appointed by the President of the Fraternal Order of Police and shall serve ~~one year terms~~ a one-year term ending on December 31, ~~2003~~ of the year of appointment.
- ~~(b) President. The voting members shall select one (1) member to serve as president of the citizens complaint board from the voting members of the board.~~
- ~~(e) Removal. All members shall serve at the pleasure of the appointing officials.~~
- ~~(d) Establishment of quorum; votes required for action. Five (5) voting members of the board shall constitute a quorum for the purpose of conducting business. Five (5) voting members of the board must vote in favor of any item before any action or disposition can be taken by the board.~~
- ~~(e) Attendance requirements. All voting and ex-officio board members must attend a minimum of seventy-five (75) percent of the meetings of the board. The appointing authority shall replace any member who fails to meet this attendance requirement within sixty (60) days of written notice of failure to meet this attendance standard.~~
- ~~(f) Training. All voting board members must participate in twenty (20) hours of training in police procedures, to be completed within six (6) months of their appointment, and shall receive an additional twenty (20) hours of such training per year. In addition, each voting member shall be required to accompany an on-duty officer a minimum of sixteen (16) hours per year, for a minimum of four (4) hours per occasion, in order to observe police procedures first hand. The appointing authority shall replace any member who fails to meet these training requirements after written notice of failure to meet these standards.~~

**Sec. ~~281-634~~ 251-133. Complaint board officers, quorum, attendance, and training.**

- (a) The voting members shall select one (1) voting member to serve as president of the complaint board.

(b) Five (5) voting members of the complaint board shall constitute a quorum for the purpose of conducting business, and five (5) voting members must vote in favor of any item before any action or disposition can be taken.

(c) All voting and ex-officio complaint board members must attend a minimum of seventy-five (75) percent of the meetings. The appointing authority shall replace any member who fails to meet this attendance requirement within sixty (60) days of written notice of failure to meet this attendance standard.

(d) All voting members of the complaint board must participate in twenty (20) hours of training in police procedures, to be completed within six (6) months of their appointment, and shall receive an additional twenty (20) hours of such training per year. In addition, each voting member shall be required to accompany an on-duty officer of the metropolitan law enforcement agency for a minimum of sixteen (16) hours per year, and for a minimum of four (4) hours per occasion, in order to observe police procedures first-hand. The appointing authority shall replace any member who fails to meet these training requirements after written notice to such member of failure to meet these standards.

**Sec. ~~281-635~~ 251-134. Complaint board duties.**

The citizens' police complaint board shall meet as often as necessary to consider all complaints which it deems appropriate to process and review, but no less than quarterly. The complaint board shall set rules for its governance and shall establish its procedures for processing complaints and for ensuring notification to citizens of the status and disposition of their complaints.

**Sec. ~~281-636~~ 251-135. Complaint office executive director; staff.**

(a) The ~~sheriff~~, director of the department of public safety after consultation with the sheriff shall appoint a full-time executive director of the citizens' police complaint office, subject to approval by the city-county council. The executive director shall be supervised by and subject to review and evaluation by the ~~sheriff~~ public safety director, with the advice and consent of the members of the citizens' police complaint board. The duties of the executive director shall include:

- (1) Managing the citizens' police complaint office, including its staff; and
- (2) Enhancing communications and good will between the police and the citizenry.

(b) The executive director shall have the authority to contract with investigators and legal counsel, if the city corporation counsel is not available, to aid in the investigation of complaints filed with or processed by the office.

(c) The executive director shall be in regular communication with the chief of the metropolitan law enforcement agency and may make recommendations to the chief concerning matters of conduct and recurring issues that are processed by the citizens' police complaint office. The executive director shall also provide periodic reports for publication in the metropolitan law enforcement agency's annual report.

(d) Staffing and budget recommendations for the citizens' police complaint office shall be made by the ~~sheriff~~ public safety director in consultation with the executive director and the citizens' police complaint board.

(e) On a quarterly basis, the executive director shall forward a report of each complaint board member's attendance and each voting member's training, as required by section 251-133, to the member's appointing body, the ~~sheriff~~ public safety director, and the chief of the metropolitan law enforcement agency.

**Sec. ~~281-637~~ 251-136. Complaint investigation and hearing procedures.**

(a) Upon the filing of a complaint, the executive director shall immediately send a copy of the complaint to the chief of the metropolitan law enforcement agency or the chief's designee. In addition, the officer or officers alleged to be involved in the incident shall be notified of the date of the incident, and given a copy of the complaint. After the filing of a complaint, the complaint board shall table its own investigation for a period of sixty (60) working days to allow the metropolitan law enforcement agency to conduct its own investigation and to allow the chief to take appropriate action. The chief may request an extension of time to complete the investigation from the ~~sheriff~~ public safety director; however, if deemed appropriate or necessary, the complaint board may order the executive director to conduct an independent simultaneous investigation before the end of the investigation conducted by the metropolitan law enforcement agency. Such action must be authorized by a three-fourths ( 3/4) vote of the entire complaint board.

(b) When the investigation is returned to the citizens' police complaint office, the complaint board shall review the investigation conducted by the metropolitan law enforcement agency and the action taken by the chief, if any. The complaint board may dispose of the complaint by endorsing the findings and action taken by the agency and shall notify the chief of this in writing. If the complaint board does not agree with the action taken by the chief or with the results of the investigation conducted by the agency, the complaint board may, by majority vote:

- (1) Order the executive director to conduct an investigation into the allegations of the complaint; and/or
- (2) Conduct an informal administrative hearing on the complaint; and/or
- (3) Order the executive director to engage in a process of informal mediation to attempt to resolve the complaint.

(c) If the complaint board determines to hold a hearing, the complaint office shall give written notice to all parties and witnesses at least fifteen (15) days in advance of the scheduled hearing. All testimony at such hearing shall be given under oath and under penalty of perjury.

(d) Upon the completion of the investigation by the complaint office or after the hearing, the complaint board shall make a disposition regarding the complaint. The disposition shall be one (1) or more of the following:

- (1) Not sustained (when there is insufficient evidence to prove the allegation(s) made in the complaint by clear and convincing evidence);
- (2) Sustained (when there is sufficient evidence to prove the allegation(s) made in the complaint by clear and convincing evidence);
- (3) Exonerated (when the allegation made in the complaint is false or not factual, or the conduct complained of was lawful and proper); and/or
- (4) Withdrawn (when the complainant requests that no further action be taken on the case).

The disposition must be made within sixty (60) working days after the agency's investigation is returned to the complaint office or after the conclusion of the investigation conducted by the executive director pursuant to subsection (a) of this section.

(e) The findings and disposition of the complaint board shall be communicated to the chief in writing within ten (10) days of the date of the disposition.

(f) If the chief does not confirm the findings and disposition of the complaint board within thirty (30) days of disposition, or if there is a conflict between the findings and disposition of the complaint board and the findings of the chief, then the complaint board may, upon a majority vote of its members, require mediation between the chief and the executive director.

(g) Any disciplinary action taken against an officer due to his or her involvement in an incident which resulted in a complaint being filed with the complaint office shall be communicated to the complaint board for disclosure to the public.

**Sec. ~~281-638~~ 251-137. Subpoena powers.**

For purposes of conducting an investigation or hearing, the complaint board shall have the power to subpoena witnesses and documents, except those documents relating to ongoing criminal investigations, including such public records as are deemed subject to disclosure under the provisions of IC 5-14-3. The power of the complaint board to issue subpoenas shall be enforceable by the Marion County circuit or superior court.

**Sec. ~~281-639~~ 251-138. Access to board by officers; participation of officers.**

(a) Any officer subpoenaed to appear before the complaint board may be represented by an attorney.

(b) Police officers shall have access to the complaint process to defend their actions, both during the investigatory and hearing processes.

(c) Police officers shall be required to cooperate with the complaint board as an investigation is conducted, subject to their constitutional rights.

SECTION 15. Sections 611-205 and 611-206 of the "Revised Code of the Consolidated City and County," regarding the removal of vehicles causing a public nuisance and the procedure for selecting wreckers, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 611-205. Removal of vehicles; release.**

(a) Any officer, upon discovering a vehicle parked or left standing so as to constitute a public nuisance, may cause the vehicle to be impounded. Impounded vehicles shall be released either upon payment by the owner, operator or authorized representative of same of the fees charged for impoundment and storage, or upon order of the chief of the metropolitan law enforcement agency, or upon order of any court having jurisdiction over the vehicle.

(b) All vehicles impounded by reason of being wrecked or stolen and all vehicles otherwise coming into the custody or control of such agency, and those impounded for parking violations, may be impounded in lots maintained for such purposes by franchised wreckers or in a lot authorized and chosen by the ~~sheriff~~ director of the department of public safety, but that lot shall not be operated by any city or county governmental agency. The attendant for any central lot shall collect the towing fees for the franchised wreckers and shall remit same to the wreckers monthly, along with monthly reports to the ~~sheriff~~ public safety director in such form as the ~~sheriff~~ director shall prescribe.

**Sec. 611-206. Procedure for selecting wreckers.**

(a) *Franchise zones.* The ~~sheriff~~ director of the department of public safety after consultation with the sheriff shall invite bids from wreckers for providing franchised towing services on the geographic basis of zones or on some other basis of distribution of towing services within the consolidated city established by the ~~sheriff~~ public safety director for the efficient organization of the removal of vehicles. The ~~sheriff~~ public safety director shall establish specifications which shall include but not be limited to the wrecker's towing vehicles, equipment, storage lot and insurance, and shall include same in all invitations to bid. Such specifications for bids shall be designed by the ~~sheriff~~ public safety director in consultation with the chief of the metropolitan law enforcement agency. Bids shall be submitted according to such specifications and the requirements of the city purchasing division. The ~~sheriff~~ public safety director after consultation with the sheriff shall award each towing contract to the responsible and responsive bidder who offers to pay the highest franchise fee above the minimum franchise fee set by the ~~sheriff~~ public safety director or it may reject any and all bids received and call for new bids. A written contract shall be executed between the ~~sheriff~~ public safety director and each successful bidder.

(b) *Franchise fee.* Towing, storage and all other such fees that may be charged by a franchise wrecker as well as a minimum franchise to be paid by the wrecker shall be set by the ~~sheriff~~ public safety director and included in the specifications for bids. The amount of the franchise fee shall be established by competitive bidding as provided in subsection (a). Funds realized from the collection of franchise fees shall be deposited in the county general fund.

SECTION 16. Section 611-303 of the "Revised Code of the Consolidated City and County," regarding the responsibilities of the department of public safety and the department of public works with respect to abandoned vehicles, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 611-303. Responsibilities of the department of public safety and the department of public works.**

(a) The department of public safety and/or the department of public works shall be charged with the responsibility for the removal, storage and disposal of abandoned vehicles which have been impounded by the metropolitan law enforcement agency pursuant to Article II of this chapter and/or IC 9-22-1-1 et seq.

(b) The department of public safety or the department of public works may enter into contractual arrangements for the disposal of vehicles which have been impounded pursuant to Article II of this chapter and/or IC 9-22-1-1 et seq. and have been declared abandoned pursuant to the provisions of IC 9-22-1-1 et seq.

(c) The department of public works shall also be charged with the responsibility for the removal, storage, and disposal of abandoned vehicles other than those designated in subsection (a) of this section.

(d) The department of public works may employ personnel, and acquire equipment, property and facilities, to facilitate the removal of abandoned vehicles.

(e) The department of public works may enter into contractual arrangements with a towing service to provide for the removal, storage and disposal of abandoned vehicles.

- (1) The contract for these services shall be awarded on the basis of specifications prepared by the department of public works.
- (2) As a prerequisite for submitting a bid or quote, a towing service must maintain processing equipment capable of disposing of vehicles by crushing or similar means.

SECTION 17. Section 611-307 of the "Revised Code of the Consolidated City and County," regarding towing and storage of abandoned vehicles, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 611-307. Towing and storage charges.**

(a) An owner or lienholder who claims a vehicle impounded and declared abandoned by the metropolitan law enforcement agency shall be charged a towing fee and a per-day storage fee consistent with the provisions of the contract entered into between the metropolitan law enforcement ~~commission~~ agency and franchised wreckers as provided in Article II of this chapter.

(b) Except as specified in subsection (a) above, an owner or lienholder who claims a vehicle removed and stored by the department of public works shall be charged a twenty-five dollar towing fee and ten dollars (\$10.00) per day storage fee. The storage fee shall be allowed to accumulate for a maximum period of sixty (60) days.

SECTION 18. The Indianapolis Metropolitan Police Department chain of command shall transfer from the Sheriff to the Department of Public Safety at 12:01 a.m. on February 29, 2008 or fourteen (14) days following the effective date of this ordinance, whichever last occurs. Further, to ensure that the enactment of this ordinance does not occasion any interruption in or disruption to the provision of law enforcement services in the city, the Public Safety Director and the Sheriff, and each of their departments, officers, agents and employees, shall:

- (1) Have an affirmative duty to act in accordance with the letter and spirit of this ordinance;
- (2) Have an affirmative duty to coordinate their efforts and to resolve all administrative issues that may arise with respect to organizational units of the Department, including but not limited to the finance section, the fleet maintenance section, the human resources branch, the identification and records branch, the information management section, and the warrant section; and
- (3) Resolve all such administrative issues and complete all aspects of the transfer of control of the Indianapolis Metropolitan Police Department from the Sheriff to the Department of Public Safety within ninety (90) days immediately following the effective date of this ordinance, which time period may be extended for thirty (30) additional days by agreement between the Mayor and the Sheriff.

SECTION 19. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 20. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 21. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

PROPOSAL NO. 21, 2008. Councillor Plowman reported that the Metropolitan Development Committee heard Proposal No. 21, 2008 on February 4, 2008. The proposal, sponsored by Councillor Plowman, amends the Code to add "religious use" as a permitted use in the

commercial zoning district, to make the definition uniform throughout the Code and to make related amendments. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Plowman moved, seconded by Councillor Cardwell, for adoption.

Councillor Sanders asked if this impacts the exemption status. Maury Plambeck, director of the Department of Metropolitan Development (DMD), stated that he does not know the answer to that, but that zoning is about usage and has nothing to do with taxes or tax exemption. Councillor Sanders asked if this covers commercial properties or day cares. Mr. Plambeck said that it only deals with religious uses, mainly churches. Commercial properties are covered in other areas of the Code.

Councillor Brown asked if this is more restrictive or less restrictive on parking for churches. Councillor Plowman said that it is less restrictive. Councillor Cain added that the amendment offered by Councillor Cardwell in Committee addressed that issue and made it less restrictive. Councillor Brown said that he has had concerns expressed to him about church parking flowing over onto the street and impeding traffic, so less restrictive is not necessarily what he was wanting.

Proposal No. 21, 2008, as amended, was adopted on the following roll call vote; viz:

*25 YEAS: Bateman, Cain, Cardwell, Carson, Cockrum, Coleman, Day, Evans, Hunter, MahernB, MahernD, Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Pryor, Scales, Smith, Speedy, Vaughn*  
*4 NAYS: Brown, Gray, Lutz, Sanders*

Proposal No. 21, 2008 was retitled GENERAL ORDINANCE NO. 3, 2008, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 3, 2008

PROPOSAL FOR A GENERAL ORDINANCE to amend the "Revised Code of the Consolidated City and County" to add "Religious Use" as a permitted use in the commercial zoning district; to make the definition for "Religious Use" uniform throughout the Revised Code and to make related amendments.

WHEREAS, the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. §§ 2000cc, et seq. states that no government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution; and

WHEREAS, to ensure compliance with the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc, et seq., and to ensure that Religious Uses and non-religious assemblies and institutions are treated equally under the terms of the Revised Code of the Consolidated City and County, the City-County Council of the City of Indianapolis and Marion County, Indiana has determined that it is necessary to add Religious Use as a permitted use in the commercial zoning district and to make further amendments to the Revised Code of the Consolidated City and County consistent therewith; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Subsection (a) of Section 732-201 of the "Revised Code of the Consolidated City and County," regarding permitted uses in a C-1 District (zoning), hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

(a) *Permitted C-1 uses.* Permitted uses in the C-1 District shall conform to the general commercial district regulations and performance of section 732-200, and the C-1 District development standards of subsection (b) of this section. The following uses shall be permitted in the C-1 District:

- (1) Assisted-living facility.
- (2) Auditorium, assembly hall.
- (3) Community, multiservice, neighborhood or senior citizens' center.
- (4) Day care center (adult, child or handicapped).
- (5) Health services, (excluding hospitals, plasma centers, or substance abuse treatment facility), including the following:

Blood donor stations

Convalescent or nursing homes

Immediate care facilities

Intermediate care facilities

Medical or dental laboratories

Nursing care (skilled) facilities

Offices and clinics of:

Chiropractors

Dentists

Optometrists

Osteopathic physicians

Outpatient clinics

Physicians (MD)

Podiatrists

- (6) Membership organization or club, any type. The following organizations, however, shall be limited to offices only:

Athletic club

Automobile owners' association or club

Condominium association (except property management)

Contractor's association

Farm bureau or grange

Fraternity or sorority

Homeowner's association (except property management)

Manufacturer's institute

Tenant association (except property management)

- (7) Mortuary, funeral home.
- (8) Office use, any type including:  
Business or personal service



Financial (bank, savings and loan, credit union, etc.)

Governmental

Professional

Social services (office only)

(9) Office or studio of the following:

Radio station

Television station

(10) Public and semi-public uses, including:

Art gallery (excluding sales)

Civic clubs

Library

Museum

Planetarium

(11) Schools/educational services, shall include only the following:

Business and secretarial

Clerical

Correspondence

Data processing

Junior college

Language

Music

Nursery

Vocational or technical

(12) Religious uses

~~(+213)~~ Accessory uses and structures, subordinate, appropriate and incidental to the above permitted primary uses, including supportive services directly related to and in the same building with the primary use and accessory retail and service commercial uses as permitted below and subject to the provisions of subsection 732-201(b)(1)g.

Cafeteria (serving only employees and guests only)

Drug store/pharmacy

Florist (including florist telegraph service)

News dealers and newsstands

Office supplies

Optical goods

Photocopying and duplicating services

Restaurant (serving office employees and guests only)

- (~~13~~14) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of subsection 732-214(e).

SECTION 2. Subsection (b) of Section 732-217 of the “Revised Code of the Consolidated City and County,” regarding definitions of words used in Chapter 732, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

(b) *Definitions.* The words in the text or illustrations of this chapter shall be interpreted in accordance with the following definitions. The illustrations and diagrams in this section provide graphic representation of the concept of a definition; the illustration or diagram is not to be construed or interpreted as a definition itself.

*Access.* The way by which vehicles shall have ingress to and egress from a land parcel or property and the street fronting along such property or parcel.

*Access drive.* That area within the right-of-way between the pavement edge or curb and the right-of-way line providing ingress and egress to and from a land parcel or property (see Diagram A).

*Accessory.* A subordinate structure, building or use that is customarily associated with, and is appropriately and clearly incidental and subordinate in use, size, bulk, area and height to the primary structure, building, and use, and is located on the same lot as the primary building, structure, or use.

*Administrator.* Administrator of the division of planning of the department of metropolitan development or his/her appointed representative.

*Adult bookstore.* An establishment having at least twenty-five (25) percent of its:

- (1) Retail floor space used for the display of adult products; or
- (2) Stock in trade consisting of adult products; or
- (3) Weekly revenue derived from adult products.

For purposes of this definition, the phrase adult products means books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. For purposes of this definition, the phrase adult products also means a device designed or marketed as useful primarily for the stimulation of human genital organs, or for sadomasochistic use or abuse. Such devices shall include, but are not limited to, phallic shaped vibrators, dildos, muzzles, whips, chains, bather restraints, racks, non-medical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other tools of sado-masochistic abuse.

*Adult cabaret.* A nightclub, bar, theatre, restaurant or similar establishment that regularly features:

- (1) Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas;
- (2) Films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons;
- (3) Persons who appear in a state of nudity or semi-nudity as defined in Chapter 807, Article I of this Code; or
- (4) Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customer.

*Adult drive-in theatre.* An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

*Adult entertainment business.* An adult bookstore, adult motion picture theatre, adult mini motion picture theatre, adult motion picture arcade, adult cabaret, adult drive-in theatre, adult live entertainment arcade or adult services establishment.

*Adult live entertainment arcade.* Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances or other gyrational choreography, which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure to specified anatomical areas.

*Adult mini motion picture theatre.* An enclosed building with a capacity of more than five (5) but less than fifty (50) persons, used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult motel.* A hotel, motel or similar establishment offering public accommodations for any form of consideration that offers a sleeping room for rent for a period of time that is less than ten (10) hours or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours, and that provides patrons, upon request, with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

*Adult motion picture arcade.* Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

*Adult motion picture theatre.* An enclosed building with a capacity of fifty (50) or more persons used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult service establishment.* Any building, premises, structure or other facility, or part thereof, under common ownership or control which provides a preponderance of services involving specified sexual activities or display of specified anatomical areas.

*Alley.* Any public right-of-way which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public access to a lot(s) otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from such lot(s).

*Alteration.* Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.

*Amusement arcade.* A type of indoor commercial amusement/recreation establishment where more than four (4) amusement machines are available to the public.

*Amusement machine.* An amusement device operated by means of the insertion of a coin, token, or similar object for the purpose of entertainment, amusement or skill and for the playing of which a fee is charged. "Amusement machine" does not include vending machines which do not incorporate gaming amusement or skill features, nor does the term include any coin-operated mechanical musical device.

*Amusement/recreational establishment, commercial.* See (indoor/outdoor) commercial amusement/recreational establishment.

*Assisted living facility.* A residential facility that provides a combination of housing, social activity, supportive services, personalized assistance, and health care, designed to foster independent living, yet respond to the individual needs of those who need help with activities of daily living (ADL - For purposes of this definition this means such activities as walking, eating, dressing, bathing, toileting, and transfer between, or in and out of a chair or bed) and instrumental activities of daily living (IADL - For purposes of this definition this means activities such as doing laundry, cleaning of living areas, meal preparation, engaging in recreational or leisure activities, taking medications properly, managing money and conducting business affairs, using public transportation, writing letters, or using the telephone). Supportive services are available twenty-four (24) hours a day to meet scheduled and unscheduled needs of residents. Such facilities are not licensed as a nursing home. Facilities have single- or double-occupancy living units which contain most dwelling unit features, such as lockable units, a food preparation area, and a full bathroom facility.

*Attached multifamily dwelling.* See dwelling, attached multifamily.

*Automated teller machine (ATM).* A mechanized apparatus which performs limited banking functions for customers such as deposits, withdrawals and transfers of funds upon insertion of a customer identification card, password, or similar device.

*Awning.* A roof-like cover, often of fabric, metal, plastic, fiberglass or glass, designed and intended for protection from the weather or as a decorative embellishment, and which is supported and projects from a wall or roof of a structure over a window, walk, door, or the like.

*Basement.* That portion of a building with an interior vertical height clearance of not less than seventy-eight (78) inches and having one-half (1/2) or more of its interior vertical height clearance below grade level.

*Bed and breakfast.* The commercial leasing of no more than four (4) bedrooms(s) for no more than eight (8) guest(s) within a private dwelling unit. Such leasing provides temporary accommodations, typically including a morning meal, to overnight guests for a fee.

*Boardinghouse.* A building, other than hotels, motels, bed and breakfasts or multifamily dwelling, containing accommodation facilities in common for up to ten (10) persons where lodging, typically with meals, reserved solely for the occupants thereof, is provided for a fee.

*Buildable area.* The area of a lot remaining after the minimum yard and open space requirements of the applicable zoning ordinance(s) have been met (see Diagram B).

*Building.* Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having a permanent roof supported by columns or walls.

*Building area.* The total ground area, within the lot or project, covered by the primary structure plus garages, carports and other accessory buildings. The ground area of a structure, or portion thereof, not provided with surrounding exterior walls shall be the area immediately under the vertical projection of the roof or the floor above (see Diagram B).

*Canopy.* A roof-like cover, often of fabric, metal, plastic, fiberglass, or glass on a support, which is supported in total or in part from the ground, providing shelter over, for example, a doorway, outside walk or parking area.

*Collector street.* See street, collector.

*Commercial garage.* See garage, commercial.

*Commission.* The Metropolitan Development Commission of Marion County, Indiana.

*Commitment.* An official agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.

*Community center.* A building used for recreational, social, educational and cultural activities of a neighborhood or community.

*Comprehensive plan.* The Comprehensive Plan for Marion County, Indiana, or segment thereof, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4.

*Condition.* An official agreement between the municipality and the petitioner concerning the use or development of the land as imposed by the Board of Zoning Appeals.

*Convenience market.* A retail establishment selling a limited number of food items, such as sandwiches, snacks, staple groceries, household items, lottery tickets and food items prepared on the premises, including reheating, which can be immediately consumed. Such establishments may also provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by use of fixed, approved dispensing equipment by customers of the establishment on a self-service basis.

*Corner lot.* See lot, corner.

*Covenant.* A legal agreement concerning the use of land.

*Crown of the street.* The highest point, most often at the centerline, of a street cross-section of the street pavement between the existing curb lines.

*Cul-de-sac.* See street, cul-de-sac.

*Curb cut.* The opening along the curb line, exclusive of handicap ramps, at which point vehicles may enter or leave the street (see Diagram A).

*Curb line.* A line located on either edge of the pavement, but within the right-of-way line (see Diagram A).

*Customer service window.* Opening on the exterior of a building through which customers receive goods or services in exchange for monetary compensation.

*Dance studio.* An establishment primarily engaged in operating and providing training, instruction, and demonstrations or recitals in various forms of dance to individuals or groups.

*Day care center.* Any institution or place operated for the purpose of providing:

- (1) Care;
- (2) Maintenance; or
- (3) Supervision and instruction;

to children who are less than six (6) years old and are separated from their parent(s), guardian, or custodian for more than four (4) hours but less than twenty-four (24) hours a day for ten (10) or more consecutive workdays, where tuition, fees or other forms of compensation are charged, and which is licensed by, and approved to operate as a day care center in accordance with the requirements of the State of Indiana. This definition shall not include a "day care home" of children.

*Day care home.* Defined in IC 12-3-2-3 as follows: A residential structure where an individual provides child care:

- (1) For compensation;
- (2) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding holidays; and
- (3) To more than five (5) children at a time who:
  - a. Are less than eleven (11) years of age; and
  - b. Are not attended by:
    1. A parent;
    2. A stepparent;

3. A guardian;
4. A custodian; or
5. A relative who is at least eighteen (18) years of age.

*Day nursery.* Same as day care center.

*Display, outdoor.* An outdoor area where merchandise is displayed for sale, and which is freely accessible to the public except that automobile retail sales areas shall be considered outdoor display areas whether freely accessible or not. Outdoor display may be the principal use of a lot or may be *accessory* to a commercial use (as allowed by the zoning district) when the sales transactions occur within a *structure*.

*Dripline.* The perimeter of a tree's spread measured to the outermost tips of the branches and extending downward to the ground.

*Drive-in.* A business establishment so developed that its retail or service character is dependant on providing a driveway approach or parking *spaces* for motor vehicles to service patrons while in or on the motor vehicle, rather than within a building.

*Drive-through.* A feature of an establishment which encourages or permits customers to receive services or obtain goods while remaining in or on a motor vehicle.

*Drive-through customer window.* See customer service window.

*Drive-through restaurant.* See restaurant, drive-through.

*Driveway.* Access for vehicular movement to egress/ingress between the right-of-way of private or public streets and the required building setback line (see Diagram A).

*Dry cleaning plant.* A facility in which the cleaning of garments, fabrics, draperies, etc., is performed with a liquid other than water. The plant is generally not visited by individual customers, but rather by individual dry cleaning dropoff establishments.

*Dwelling, attached multifamily.* A building or buildings for residential purposes with three (3) or more dwelling units, having common or party wall or walls, on a single lot. Each unit is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common or individual stairwell(s) exterior to any dwelling unit(s).

*Dwelling unit.* One (1) or more rooms connected together in a residential building or residential portion of a building, which are arranged, designed, used and intended for use by one (1) or more human beings living together as a family and maintaining a common household for owner occupancy or rental or lease on a weekly, monthly, or longer basis; and which includes lawful cooking, eating, sleeping space and sanitary facilities reserved solely for the occupants thereof.

*Educational services.* An establishment providing academic or technical instruction or primarily engaged in offering educational courses and services, including libraries, student exchange programs and curriculum development.

*Enlargement (pertaining to adult entertainment only).* An increase in the size of the building, structure or premises in which the adult entertainment business is conducted by either construction or use of an adjacent *building* or any portion thereof whether located on the same or an adjacent lot or parcel of land.

*Erect.* Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.

*Establishing an adult entertainment business.* Shall mean and include any of the following:

- (1) The opening or commencement of any such business as a new business;
- (2) The conversion of an existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses defined herein;

- (3) The relocation of any such business.

*Excavation.* The breaking of ground, except common household gardening, ground care and agricultural activity.

*Family.* One (1) or more human beings related by blood, marriage, adoption, or guardianship together with incidental domestic servants and temporary noncompensating guests; or not more than four (4) human beings not so related, occupying a dwelling unit and living as a single housekeeping unit.

*Fast food restaurant.* See restaurant, fast food.

*Floor area, gross.* The number of the square feet of horizontal floor area of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) abutting buildings.

*Front lot line.* See lot line, front.

*Front yard.* See yard, front.

*Frontage (street frontage).* The line of contact of a property with the street right-of-way along a lot line which allows unobstructed, direct access to the property.

*Garage, commercial.* Any building designed and intended for the storage or repair of motor vehicles for compensation.

*Gasoline service station.* Any building, land area or other premises or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; which may include as an accessory use minor automotive repairs; the sale and installation of lubricants, tires, batteries; car washes; and similar accessory uses. Such establishments shall provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by use of fixed, approved dispensing equipment by customers or employees.

*Grade, established street.* The crown elevation of a street pavement level abutting a property (as fixed by the Department of Public Works).

*Grade level (adjacent ground elevation).* The lowest point of elevation of the finished surface of the ground, paving or sidewalk and similar surface improvements within the area between the exterior walls of a primary building or structure and the property line, or when the property line is more than ten (10) feet from such walls, between such walls and a line ten (10) feet away from and paralleling such walls.

*Grocery store.* A commercial establishment, commonly known as a supermarket, food or grocery store, primarily engaged in the retail sale of canned foods and dry goods, such as tea, coffee, spices, sugar, and flour; fresh fruits and vegetables; and fresh and prepared meats, fish and poultry.

*Gross floor area.* See floor area, gross.

*Gross floor area, total.* The sum of the gross horizontal areas of all floors below the roof and within the exterior faces of the exterior walls of principal and accessory buildings or the centerlines of walls separating two (2) abutting buildings.

*Gross leasable area.* The total floor area which is designed for the tenant's occupancy and exclusive use.

*Ground cover.* Low-growing plants less than eighteen (18) inches in height with a spreading growth habit, such as grasses, vines, flowers, and the like.

*Ground floor.* That story which contains finished floor area closest to, but not below, grade level. In cases in which the only story with finished floor area is below grade level, that story with finished floor area closest to grade level shall be considered the ground floor.

*Handicap ramp.* See pedestrian ramp.

*Hardsurfaced.* Quality of an outer area being solidly constructed of pavement, brick, paving stone, or a combination thereof.

*Hardware store.* A commercial establishment primarily engaged in the retail sale of a number of basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, and cutlery.

*Health care facility.* A facility or institution, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition.

*Health services.* Medical, surgical or other similar services provided to individuals, including services provided by physicians, dentists, and other health practitioners, medical and dental laboratories, outpatient care facilities or blood banks.

*Hedge.* A row or rows of closely planted shrubs, bushes, etc., creating a vegetative barrier.

*Height, building.* The vertical distance above a reference line measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hipped roof. The reference line shall be selected by either of the following, whichever yields a greater building height:

- (1) The elevation of the highest adjoining sidewalk or ground surface within a ten-foot horizontal distance from and paralleling the exterior wall of the building or structure when such sidewalk or ground surface is not more than ten (10) feet above lowest grade;
- (2) An elevation ten (10) feet higher than the lowest grade when such sidewalk or ground surface is more than ten (10) feet above the lowest grade.

*Home improvement store/center.* A facility for the sale of home, lawn, and garden materials and supplies, brick, lumber, hardware items and other similar materials.

*Hotel.* Any building or group of buildings containing five (5) or more rooms without direct access to the outside, designed or intended to be occupied for sleeping purposes by guests for a fee, often with general kitchen and dining room facilities provided within the building or an accessory building, and which caters to the traveling public.

*Indoor commercial amusement/recreation establishment.* A facility wholly enclosed in a building that offers entertainment or games of skill to the general public for a fee. This includes but is not limited to such facilities as bowling alleys, billiard parlors, or arcades.

*Inoperable vehicle* means:

- (1) A motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle from which there has been removed engine, transmission or differential parts or that is otherwise partially dismantled or mechanically inoperable; or
- (2) Any motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle, which cannot be driven, towed or hauled on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate.

*Integrated center.* An area of development (commercial, industrial or any combination of commercial, industrial and residential uses) of one (1) or more lots, comprised of:

- (1) A number of individual, nonrelated and separately operated uses in one (1) building sharing common-site facilities; or
- (2) One (1) or more buildings containing nonrelated and separately operated uses occupying a common-site, which utilize one (1) or a combination of common-site facilities, such as driveway entrances, parking areas, driving lanes, signs, maintenance and similar common services; or
- (3) One (1) or more buildings containing unrelated and separately operated uses occupying individual sites, which are interrelated by the utilization of one (1) or a combination of common facilities, such as driveway entrances, public or private street network, parking areas, maintenance and other services.

*Interior access drive.* A minor, private street providing access within the boundaries of a project beginning at the required setback line (see Diagram A).



*Interior access driveway.* Access for vehicular movement to egress/ingress between interior access drives connecting two (2) or more projects or land parcels (see Diagram A).

*Job printer.* A facility for the commercial reproduction, cutting, printing, or binding of written materials, drawings, or labels on a bulk basis using lithography, offset printing, blueprinting and similar methods.

*Landscaping.* Any combination of living plants, such as trees, shrubs, ground cover, thickets with grasses planted, preserved, transplanted, maintained to develop, articulate and enhance the aesthetic quality of the area as well as provide erosion and drainage control and wind protection.

*Landscaping, interior.* Landscaping areas consisting of a combination of trees, shrubs and ground cover located in the interior of vehicular use areas so as to provide visual and climatic relief from broad expanses of pavement and to channelize and define areas for pedestrians and vehicular circulation.

*Legally established nonconforming building or structure.* Any continuous, lawfully established building or structure erected or constructed prior to the time of adoption, revision or amendment, or granted a variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment or variance, to conform to the present requirements of the zoning district.

*Legally established nonconforming use.* Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment or granted a variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment, or variance to conform to the present requirements of the zoning district.

*Liquor store, package.* A facility principally for the retail sale of alcoholic beverages for off-premises consumption.

*Loading area.* An off-street area maintained and intended for the maneuvering and temporary parking of vehicles while transferring goods or materials to and from a facility.

*Loading space.* An off-street space or berth used for the temporary parking of a commercial vehicle while transferring goods or materials to and from a facility.

*Local street.* See street, local.

*Lot.* A tract of land designated by its owner(s) to be used or developed as a unit under single ownership or control. A lot may or may not coincide with a lot of record and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record; or
- (3) A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.

For purposes of this definition, ownership includes:

- (1) The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the records of the township assessor;
- (2) A contract vendee;
- (3) A long-term lessee (but only if the lease is recorded among the records of the county recorder and has at least twenty-five (25) years remaining before its expiration at the time of applying for a permit) (see Diagram C).

*Lot area.* The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street, alley, or easement for surface access (ingress or egress) into the subject lot or adjoining lots.

*Lot, corner.* A lot abutting upon two (2) or more streets at their intersections, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees (see Diagram C).

*Lot, through.* A lot abutting two (2) parallel streets, or abutting two (2) streets which do not intersect at the boundaries of the lot (see Diagram C).

*Lot line.* The legal boundary of a lot as recorded in the Office of the Marion County Recorder.

*Lot line, front.* The lot line(s) coinciding with the street rights-of-way; in the case of a corner lot, both lot lines coinciding with the street rights-of-way shall be considered front lot lines; or in the case of a through lot, the lot line which most closely parallels the primary entrance of the primary structure shall be considered the front lot line, or so declared by the Administrator (see Diagram B).

*Lot line, rear.* A lot line which is opposite and most distant from the front lot line, or in the case of a triangularly shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line. However, in the case of a corner lot line, any lot line which intersects with a front lot line shall not be considered a rear lot line.

*Lot line, side.* Any lot line not designated as a front or rear lot line.

*Lot of record.* A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in the office of the recorder of Marion County, Indiana.

*Main floor area.* The area of a horizontal plane, fully bound by the exterior walls of the primary building or structure, of the floor surface at or above grade level exclusive of vent shafts, decks, garages, uncovered or covered open space.

*Marginal access street.* See *street*, marginal access.

*Mini-warehouses.* A building or group of buildings containing one (1) or more individual compartmentalized storage units for the inside storage of customers' goods or wares, where no unit exceeds six hundred (600) square feet in area.

*Minor emergency repairs.* Those maintenance repairs necessitating an immediate solution yet not posing an immediate life-safety hazard, nor altering the existing character of the structure (see alteration).

*Motel.* Any building or group of buildings containing five (5) or more rooms with at least twenty-five (25) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building(s), designed or intended to be occupied for sleeping purposes by guests for a fee, where general kitchen and dining room facilities may be provided within the building or an accessory building, and which caters to the traveling public.

*Mulch.* A protective covering of organic substances placed around plants to control weeds and prevent evaporation of moisture or freezing. Plastic, loose gravel, stones or rocks shall not be considered as mulch.

*Neighborhood recycling collection point.* A site where individuals bring household recycling materials to either drop off without compensation, or to redeem the materials for monetary compensation. Beyond any limited sorting, no other processing of the material takes place at the site. All materials are stored completely within the structure while awaiting periodic shipment to the processing facilities. While these collection points may be developed as freestanding sites, they typically are accessory uses sharing the site of a larger primary use. Possible structures for this type of operation include such recycling containers as "igloos," reverse vending machines, trailers, or similar structures.

*Night club.* An establishment engaged primarily in offering entertainment to the general public, in the form of music for dancing or live and recorded performances. The establishment may or may not engage in the preparation and retail sale of alcoholic beverages for consumption on the premises. For the purposes of this chapter, an establishment of a similar nature which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be construed to be a night club, but rather a commercial amusement/recreation establishment.

*Nonconforming adult entertainment business.* Shall mean any building, structure or land lawfully occupied by an adult entertainment business or lawfully situated at the time of passage of General Ordinance 44, 1984, adopted on July 9, 1984, or amendments thereto, which does not conform after the passage of that ordinance or amendments thereto with the regulations of this chapter.

*Nursery, day.* See day care center.

*Off-street.* A location completely within the boundaries of the lot, and completely off of public or private rights-of-way or alleys or any interior surface access easement for ingress and egress.

*On-center.* Distance at grade from the center of one (1) plant to the center of the next plant.

*Outdoor commercial amusement/recreation establishment.* An open area offering entertainment or games of skill to the general public for a fee. This includes but is not limited to such facilities as golf courses, swimming pools, and baseball/softball fields.

*Outdoor display.* See display, outdoor.

*Outdoor storage.* See storage, outdoor.

*Parking area.* An area of paving other than an open exhibition or display area, not inclusive of interior access drives, driveways, interior access driveways and access drives intended for the temporary storage of automotive vehicles including parking spaces and the area of access for the egress/ingress of automotive vehicles to and from the actual parking space (see Diagram A).

*Parking bay.* The parking module consisting of one (1) or two (2) rows of parking spaces and the aisle from which motor vehicles enter and leave the spaces (see Diagram A).

*Parking space.* An off-street portion of the parking area, which shall be used only for the temporary placement of an operable vehicle (see Diagram A).

*Pavement.* A layer of concrete, asphalt or coated macadam used on street, parking area, sidewalk, or airport surfacing.

*Pedestrian ramp.* An inclined access opening along the curb line at which point pedestrians, unassisted or assisted by a wheelchair, walker or the like, may enter or leave the street; or an incline providing pedestrians, unassisted or assisted by a wheelchair, walker or the like, access from the ground to an elevated surface.

*Permitted use.* Any use by right authorized in a particular zoning district or districts and subject to the restrictions applicable to that zoning district.

*Personal service.* Services provided involving the care of a person or his/her apparel.

*Personal service establishment.* A commercial establishment primarily engaged in providing services generally to individuals involving the care of a person or his/her apparel, such as laundries, photographic portrait studios, barber and beauty shops, shoe repair, tailor, travel bureaus or similar facilities.

*Physically handicapped.* An individual who has a physical impairment including impaired sensory, manual or speaking abilities, which results in a functional limitation in access to and use of a building or facility.

*Plat.* An officially recorded map, as recorded in the Office of the Marion County Recorder, or a map to be recorded indicating the subdivision of land including, but not limited to, boundaries and locations of individual properties, streets, and easements.

*Primary building.* The building in which the permitted primary use of the lot is conducted.

*Printer, job.* See job printer.

*Proposed right-of-way.* See right-of-way, proposed.

*Protected district.* Specific classes of zoning districts which, because of their low intensity or the sensitive land uses permitted by them, require additional buffering and separation when abutted by certain more intense classifications of land use. For the purposes of this article, a protected district shall include any dwelling district, hospital district, parks district, university quarter district, SU-1 (church) District or SU-2 (school) District.

*Rear yard.* See yard, rear.

*Reconstruction (pertaining to adult entertainment only).* The rebuilding or restoration of any nonconforming adult entertainment business which was damaged or partially destroyed by an exercise of

the power of eminent domain, or by fire, flood, wind, explosion or other calamity or act of God, if the damage or destruction exceeds two-thirds ( 2/3 ) of the value of the structure or the facilities affected.

*Recreation facility.* A place, area or structure designed and equipped for the conduct of sport, leisure time activities and other customary and usual recreational activities.

*Recycling container.* Receptacle designed and intended for the collection of cleaned, sorted, solid household waste products, including, but not limited to, glass, plastic, metal and paper.

*Recycling station.* A recycling operation involving further processing (relative to a neighborhood recycling collection point) of materials to improve the efficiency of subsequent hauling. Such a facility typically features sorting, the use of a crushing apparatus, and the storage of the material until it is shipped out. These businesses usually occupy existing freestanding sites, such as former gasoline stations, or occupy parts of an integrated center parking lot.

*Religious use.* A land use and all buildings and structures associated therewith devoted primarily to the purpose of divine worship together with reasonably related *accessory* uses, which are subordinate to and commonly associated with the primary use, which may include but are not limited to, educational, instructional, social or residential uses.

*Restaurant, drive-in or drive-through.* Any restaurant designed to permit or facilitate the serving of food or beverages directly to, or permitted to be consumed by, patrons in or on motor vehicles parking or stopped on the premises.

*Restaurant, family.* An establishment where food and drink are prepared, served and consumed primarily within the principal building to the general public. The establishment may have a separate area, or lounge, where alcoholic beverages are served without full food service, provided the area is accessory to the primary use in: 1) square feet; or 2) sales.

*Restaurant, fast food.* An establishment whose principal business is the sale of preprepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on-premises or off-premises.

*Resumption (pertaining to adult entertainment only).* Shall mean the reuse or reoccupation of a nonconforming adult entertainment business which has been discontinued for a period of six (6) or more consecutive months.

*Retail trade.* Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. The establishment typically buys goods for resale to the public.

*Required yard.* See yard, required.

*Right-of-way.* Specific and particularly described strip of land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially recorded by the Office of the Marion County Recorder.

*Right-of-way, private.* Specific and particularly described strip of privately held land, property, or interest therein devoted to and subject to use for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.

*Right-of-way, proposed.* Specific and particularly described land, property, or interest therein devoted to and subject to the lawful public use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially described in the Marion County Thoroughfare Plan as adopted and amended by the Metropolitan Development Commission.

*Right-of-way, public.* Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.

*Roof line.* The uppermost edge of the water-carrying surface of a building or structure.

*Satellite dish antenna.* A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone or horn. Such device shall be used to transmit or receive radio or electromagnetic waves between terrestrially or orbitally based devices.

*Screening.* A method of visually shielding or obscuring a nearby structure, building or use on an abutting or adjacent property or lot from another by fencing, walls, berms, or densely planted vegetation.

*Seasonal retail sales use, temporary.* A temporary use established for a fixed period of time, for the retail sale of seasonal products, including, but not limited to, such items as food, Christmas trees, and live plants. This use may or may not involve the construction or alteration of any permanent building or structure.

*Semi-public use.* See use, semi-public.

*Service bay.* Individual area within an automobile repair or service facility where services, including but not limited to car washes, oil changes and repairs, are performed on a motor vehicle.

*Services involving specified sexual activity or display of specified anatomical areas.* Any combination of two (2) or more of the following activities:

- (1) The sale or display of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representation which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;
- (2) The presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons;
- (3) The operation of coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices per machine at any one (1) time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas;
- (4) Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas;
- (5) The operation of a massage school, massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio, as these terms are defined in Chapter 911 of this Code.

*Setback.* The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line (see Diagram B).

*Setback line.* A line that establishes the minimum distance a building, structure, or portion thereof, can be located from a lot line or proposed right-of-way line (see Diagram B).

*Shopping center.* A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access and often with protection from the elements.

*Shrub.* A woody plant of relatively low height (not exceeding ten (10) to twelve (12) feet in height), branching from the base.

*Side yard.* See yard, side.

*Sidewalk.* A hardsurfaced walk or raised path along and often paralleling the side of the street intended for pedestrian traffic.

*Sign.* Any structure, fixture, placard, announcement, declaration, device, demonstration or insignia used for direction, information, identification or to advertise or promote any business, product, goods, activity, services or any interests.

*Site plan.* The development plan, or series of plans, drawn to scale, for one (1) or more lots on which is shown the existing and proposed location and conditions of the lot including as required by ordinance, but not limited to: Topography, vegetation, drainage, floodplains, marshes, and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings, structures, signs, lighting and screening devices, centerlines of rights-of-way, and dimensions.

*Specified anatomical areas.* Any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities.* Any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts;
- (4) Flagellation or torture in the context of a sexual relationship;
- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
- (6) Erotic touching, fondling or other such contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation as a part of or in connection with any of the activities set forth in (1) through (6) above.

*Stacking space, off-street.* An area, separate from or in addition to, the required parking area, reserved for the temporary retention of vehicles which are queuing up or utilizing the services of a drive-through service unit.

*Storage, outdoor.* An outdoor area used for the long-term deposit (more than twenty-four (24) hours) of any goods, material, merchandise, vehicles or junk.

*Storage area.* An area designated, designed and intended for the purpose of reserving property for a future use and distinguished from areas used for the display of property intended to be sold or leased.

*Storage room.* An enclosed area integrated into and sharing a common or party wall or walls within a primary building, while designed and intended for the purpose of reserving property for a future use.

*Story.* That part of a building, with an open height of not less than seven (7) feet six (6) inches, except a mezzanine, included between the upper surface of one (1) floor and the lower surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall constitute a story only if it provides finished floor area.

*Street, collector.* A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., thirty-five (35) mph) between *local streets* and arterials while allowing direct access to abutting property(ies) (see Diagram D).

*Street, cul-de-sac.* A street having only one (1) open end which is permanently terminated by a vehicle turnaround (see Diagram D).

*Street, expressway.* A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

*Street, freeway.* A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

*Street, local.* A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., twenty (20) to thirty (30) mph) within the immediate geographic area with direct access to abutting property(ies) (see Diagram D).

*Street, marginal access.* A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to abutting property(ies) (see Diagram D).

*Street, parkway.* A street serving through vehicular traffic and equal to or more than five thousand two hundred eighty (5,280) feet in length, the adjoining land on one (1) or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the comprehensive plan and the Thoroughfare Plan.

*Street, primary.* A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

*Street, private.* A privately held right-of-way, with the exception of alleys, essentially open to the sky and open for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for such purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and the like.

*Street, public.* A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for such purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and the like.

*Street, secondary.* A street so designated by the Official Thoroughfare Plan for Marion County, as amended.

*Structural alteration.* Shall mean any change which would prolong the life of the supporting members of a building or structure such as bearing walls, columns, beams or girders, except such changes as are ordered made pursuant to the provisions of the Unsafe Building Law, IC 36-7-9-1, and any amendments thereto.

*Structure.* A combining or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.

*Subdivision.* The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development.

*Substance abuse treatment facility.* A facility, the primary function of which is to administer or dispense a schedule II controlled substance (as listed under IC 35-48-2-6(b) or (c)) to a narcotic addict for maintenance or detoxification treatment.

*Tavern.* An establishment used primarily for the serving of liquor by the drink to the general public, but where minors cannot be within the use, and where food or packaged liquors may be served or sold only as accessory to the primary use.

*Temporary seasonal retail sales use.* See seasonal use, temporary.

*Temporary use.* An impermanent land use established for a limited and fixed period of time with the intent to discontinue such use upon the expiration of the time period.

*Theatre, drive-in.* An open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in motor vehicles.

*Theatre, motion picture.* A building or part of a building which is devoted primarily to showing motion pictures to the public for a fee.

*Theatre, legitimate.* A building or structure or part thereof which is devoted primarily for the presentation of live dance, dramatic, musical or comedic performances.

*Thoroughfare.* A street primarily serving through vehicular traffic, including freeways, expressways, primary arterials, and secondary arterials.

*Thoroughfare Plan.* The segment of the Comprehensive Plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4 that sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary arterials, secondary arterials, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.

*Through lot.* See lot, through.

*Total gross floor area.* See gross floor area, total.

*Transitional yard.* See yard, transitional.

*Trash container.* Receptacle intended for the disposal, collection or temporary storage of unsorted waste products or refuse.

*Trash enclosure.* An accessory structure enclosed on at least three (3) sides that is designed to screen and protect waste receptacles from view and to prevent waste debris from dispersing outside the enclosure.

*Tree survey.* An inventory of all trees on a lot or project before construction, alteration or excavation activity occurs identifying species, location, caliper, and dripline of trees. In the case of dense tree stands that exceed six hundred (600) square feet in area and seventy-five (75) percent branch coverage of the ground surface, the location of the outer boundary of the tree stands' dripline with a listing of the predominant species and caliper may be substituted for a detailed inventory.

*Use, semi-public.* A service offered by a not-for-profit organization to the general public for either no charge or a nominal fee.

*Variety store.* Commercial establishments primarily engaged in the retail sale of a variety of merchandise in the low price range. Sales usually are made on a cash-and-carry basis, with the open-selling method of display and customer selection of merchandise. These stores generally do not carry a complete line of merchandise, are not departmentalized, do not carry their own charge service, and generally do not deliver merchandise.

*Vending machine.* An automatic device which dispenses goods or services to the customer upon receipt of monetary compensation.

*Walkway.* A hardsurfaced walk or raised path for pedestrian traffic.

*Yard, front.* An open space unobstructed to the sky, extending fully across the lot while situated between the front lot line and a line parallel thereto, which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line (see Diagram B).

*Yard, rear.* An open space unobstructed to the sky, extending fully across the lot situated between the rear lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line (see Diagram B).

*Yard, required.* That portion of any yard abutting a lot line having a minimum depth as area required by the particular zoning district in which it is located.

*Yard, side.* An open space unobstructed to the sky, extending the length of the lot situated between a side lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the point of contact with any rear or front yards or any lot line, whichever occurs first (see Diagram B).

*Yard, transitional required.* That portion of any yard abutting a protected district having a minimum depth as required by the particular zoning district in which it is located and acting as a buffer between two (2) or more land uses of different intensity (see Diagram B).

SECTION 3. Subsection (b) of Section 735-751 of the "Revised Code of the Consolidated City and County," regarding definitions of words used in Article VII of Chapter 735, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

(b) *Definitions.*



*Administrator.* Administrator of the division of planning or his/her appointed representative. Where the 1400 series of IC-36-7-4 gives authority to perform a function to Commission staff, the Administrator, or his/her appointed representative, shall be deemed to be Commission staff.

*Assisted-living facility.* A residential facility that provides a combination of housing, social activity, supportive services, personalized assistance, and health care, designed to foster independent living, yet respond to the individual needs of those who need help with activities of daily living (ADL - for purposes of this definition this means such activities as walking, eating, dressing, bathing, toileting, and transfer between, or in and out of a chair or bed) and instrumental activities of daily living (IADL - for purposes of this definition this means activities such as doing laundry, cleaning of living areas, meal preparation, engaging in recreational or leisure activities, taking medications properly, managing money and conducting business affairs, using public transportation, writing letters, or using the telephone). Supportive services are available twenty-four (24) hours a day to meet scheduled and unscheduled needs of residents. Such facilities are not licensed as a nursing home. Facilities have single- or double-occupancy living units which contain most dwelling unit features, such as lockable units, a food preparation area, and a full bathroom facility.

*Building.* Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having a permanent roof supported by columns or walls.

*Commission.* The Metropolitan Development Commission of Marion County, Indiana.

*Commitment.* An official agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.

*Condition.* An official agreement between the municipality and the petitioner concerning the use or development of the land as imposed by the Board of Zoning Appeals.

*Gross floor area.* The number of the square feet of horizontal floor area of a building measured from the exterior faces of the exterior walls or from the centerline of a wall separating two (2) abutting buildings.

*Hardsurfaced.* Quality of an outer area being solidly constructed of pavement, brick, paving stone, or a combination thereof.

*Height, building.* The vertical distance above a reference line measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hipped roof. The reference line shall be selected by either of the following, whichever yields a greater building height:

- (1) The elevation of the highest adjoining sidewalk or ground surface within a ten-foot horizontal distance from and paralleling the exterior wall of the building or structure when the sidewalk or ground surface is not more than ten (10) feet above lowest grade;
- (2) An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface is more than ten (10) feet above the lowest grade.

*Legally established nonconforming building or structure.* Any continuous, lawfully established building or structure erected or constructed prior to the time of adoption, revision or amendment or granted variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment or variance, to conform to the present requirements of the zoning district.

*Legally established nonconforming use.* Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment, or grant of a variance of the zoning ordinance but which fails, by reason of such adoption, revision, amendment, or variance to conform to the present requirements of the zoning district.

*Lot line.* The legal boundary of a lot as recorded in the Office of the Marion County Recorder.

*Lot line, front.* The lot line(s) coinciding with the street rights-of-way; in the case of a corner lot, both lot lines coinciding with the street rights-of-way shall be considered front lot lines; or in the case of a through lot, the lot line which most closely parallels the primary entrance to the primary structure shall be considered the front lot line, or so declared by the Administrator.

*Lot line, rear.* A lot line which is opposite and most distant from the front lot line, or in the case of a triangularly shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum

distance from the front lot line. However, in the case of a corner lot, any lot line which intersects with a front lot line shall not be considered a rear lot line.

*Lot line, side.* Any lot line not designated as a front or rear lot line.

*Open dumping.* A site where refuse is dumped, which due to lack of control may create a breeding place for flies and rats, may catch fire or produce air pollution.

*Permitted use.* Any use by right authorized in a particular zoning district or districts and subject to the restrictions applicable to that zoning district.

*Religious use.* A land use and all buildings and structures associated therewith devoted primarily to the purpose of divine worship together with reasonably related accessory uses, which are subordinate to and commonly associated with the primary use, which may include but are not limited to, educational, instructional, social or residential uses.

*Sanitary landfill.* A method of disposing of refuse on land without creating nuisances or hazards to public health, safety, or welfare by utilizing principals of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, covering it with a layer of suitable cover at the conclusion of each day's operation or at more frequent intervals as necessary.

*Setback.* The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line.

*Setback line.* A line that establishes the minimum distance a building, structure, or portion thereof, can be located from a lot line or proposed right-of-way line.

*Site plan.* The plan, or series of plans, drawn to scale, for one (1) or more lots on which is shown the existing and proposed location and conditions of the lot including as required by the Improvement Location Permit ordinance, but not limited to: topography, vegetation, drainage, floodplains, marshes, and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings, structures, signs, lighting and screening devices, centerlines of rights-of-way, and dimensions.

*Structure.* A combining or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.

*Thoroughfare.* The segment of the Comprehensive Plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC-36-7-4 that sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary arterials, secondary arterials, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.

*Yard, front.* An open space unobstructed to the sky, extended fully across the lot while situated between the front lot line and a line parallel thereto, which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line.

*Yard, rear.* An open space unobstructed to the sky extending fully across the lot situated between the rear lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line.

*Yard, side.* An open space unobstructed to the sky extending the length of the lot situated between a side lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the point of contact with any rear or front yards or any lot line, whichever occurs first.

SECTION 4. Subsection (k) of Section 732-211 of the "Revised Code of the Consolidated City and County," including Table 2.10-A and regarding amount of parking spaces required, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

(k) *Amount of parking spaces required.*

(1) Off-street parking spaces shall be provided and maintained for uses in the commercial district in accordance with the minimum requirement set forth in Table 2.10-A.

- (2) When a computation of required parking spaces results in a fraction of one-half ( $\frac{1}{2}$ ) or greater, the number of required parking spaces shall be rounded up to the next whole number.

**TABLE 2.10-A**  
**MINIMUM NUMBER OF OFF-STREET PARKING SPACES REQUIRED BY USE**

<i>Use</i>	<i>Minimum parking requirement</i>
1. Any amusement establishments (commercial, recreational) involving the assembling of persons (unless otherwise specified in this table):	
a. Indoor	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
b. Outdoor	One (1) parking space for each two hundred (200) square feet of gross floor area plus one (1) parking space for each four hundred (400) square feet of site area accessible to the public, exclusive of the parking area.
2. Assisted-living facility	Total car ratio (TCR) - assisted-living facilities: 0.500. In addition, one (1) visitor parking space shall be provided per six (6) dwelling units; plus one (1) parking space per employee on duty during the peak work shift.
3. Auto, truck or motorcycle sales or repair:	One (1) parking space for each employee per largest work shift, plus two (2) spaces per service bay (a service bay shall not be considered a parking space), plus one (1) space for each two hundred (200) square feet of interior sales and display area, plus one (1) space for each seven thousand (7,000) square feet of outdoor display area.
4. Banking: bank, savings and loan, credit union	
a. Combined drive-through and walk-in facilities	One (1) parking space for each two hundred fifty (250) square feet of gross floor area. (Also subject to the drive-through requirements of section 732-213).
b. Drive-through facility only	One (1) parking space for each employee per largest work shift, plus a minimum of three (3) additional parking spaces. (Also subject to the drive-through requirements of section 732-213).
c. Walk-in facility only	One (1) parking space for each two hundred (200) square feet of gross floor area.
5. Bowling alleys:	a. Four (4) parking spaces for each alley/lane. b. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the bowling alley, such as restaurants, night clubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for uses located within or operated in conjunction with the bowling alley).
<del>76.</del> Community centers, museums, civic clubs, philanthropic and eleemosynary institutions:	One (1) parking space for each four hundred (400) square feet of gross floor area.
<del>87.</del> Convenience market	One (1) parking space for each two hundred eighty-five (285) square feet of gross floor area. Parking spaces at gasoline pumps may be included in the calculation of required parking.
<del>98.</del> Day nurseries, day care centers, kindergartens, nursery schools:	One (1) parking space for each employee per largest work shift, plus one (1) parking space for each five hundred (500) square feet of gross floor area.
<del>109.</del> Dwelling unit	One-and-one-half (1.5) parking spaces for each dwelling unit.
<del>110.</del> Fire station:	One (1) parking space for each two (2) employees on the premises during the largest work shift, plus a minimum of three (3) additional parking spaces.

<del>42</del> <u>11</u> . Furniture/floor or wall covering store	One (1) parking space for each four hundred (400) square feet of gross floor area.
<del>43</del> <u>12</u> . Gasoline service stations, tire and auto service center, other auto service functions:	One (1) parking space for each employee per largest work shift, plus two (2) spaces per service bay (a service bay shall not be considered a parking space), plus three (3) customer spaces, plus one (1) space for each three hundred (300) square feet of gross floor area devoted to retail sales.
<del>44</del> <u>13</u> . Gasoline service station/convenience market	Same as (8) convenience market.
<del>45</del> <u>14</u> . Grocery store/supermarket	One (1) parking space for each one hundred fifty (150) square feet of gross floor area.
<del>46</del> <u>15</u> . Hardware/paint/home improvement store	One (1) parking space for each two hundred (200) square feet of gross floor area plus one (1) parking space for each one thousand (1,000) square feet of the facility devoted to outside operations or storage, exclusive of the parking area.
<del>47</del> <u>16</u> . Health spa/sports club	<ol style="list-style-type: none"> <li>One (1) parking space for each two hundred (200) square feet of gross floor area.</li> <li>If, in addition, there are other uses or accessory uses located within or operated in conjunction with the health spa or sports club, such as dining areas, restaurants, night clubs, retail stores and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the health spa or sports club).</li> </ol>
<del>48</del> <u>17</u> . Hotels, motels:	<ol style="list-style-type: none"> <li>One (1) parking space for each rental sleeping unit.</li> <li>If, in addition to sleeping units, there are other uses or accessory uses located within or operated in conjunction with the hotel or motel, such as ballrooms, meeting rooms, dining areas, retail stores, auditoriums, restaurants, night clubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided. (Calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the hotel or motel).</li> </ol>
<del>49</del> <u>18</u> . Library	One (1) parking space for each four hundred (400) square feet of gross floor area.
<del>20</del> <u>19</u> . Medical, dental, optometrists clinics/offices:	One (1) parking space for each two hundred (200) square feet of gross floor area.
<del>21</del> <u>20</u> . Mini-warehouses	Three (3) parking spaces for each office, plus one (1) parking space per each employee based on the largest work shift, plus one (1) parking space per resident/manager, plus one (1) parking space for each thirty (30) storage units. Required off-street parking spaces shall not be utilized as rental or leased spaces.
<del>22</del> <u>21</u> . Miniature golf	Four (4) parking spaces for each golf hole, plus one (1) parking space per each employee based on the largest work shift, plus one (1) space per each one hundred (100) square feet devoted to accessory retail or amusement establishments.
<del>23</del> <u>22</u> . Mortuary, funeral service, crematories	One (1) parking space for each fifty (50) square feet of floor area in parlors and assembly rooms.
<del>24</del> <u>23</u> . Nursing and convalescent homes, homes for the aged, sanitariums, rehabilitation centers	One (1) parking space for each three (3) patient beds, plus one (1) parking space for each two (2) employees and each two (2) staff doctors on the premises during the largest work shift.

<del>25</del> 24. Office commercial use, general: (To include, but not be limited to business, professional office, post office, office park, research center)	Three and one-half (3.5) parking spaces for each one thousand (1,000) square feet of gross floor area.
<del>26</del> 25. Racquetball/tennis courts/club facilities	One (1) parking space per employee, plus four (4) parking spaces per game court, plus one (1) parking space for each two hundred (200) square feet of the remaining floor area in the building devoted to retail activities.
<del>26</del> 26. <del>Churches/synagogues, Religious uses, Auditoriums, assembly halls, recital halls:</del>	One (1) parking space for each four (4) seats at <u>the maximum calculated capacity of the largest assembly room.</u> <u>Provided, however:</u> <u>(1) In no case shall less than five (5) parking spaces be provided; and</u> <u>(2) Residential uses shall provide parking spaces as required for residential use by this section and such calculation shall be separate from the parking calculation for the largest assembly room; and</u> <u>(3) Commercial uses that cumulatively exceed the square footage of the largest assembly room shall provide parking spaces as required for the individual commercial uses by this section and such calculation shall be separate from the parking calculation for the largest assembly room.</u>
27. Restaurant:	
a. Family	One (1) parking space per employee per largest work shift plus one (1) parking space for each four (4) customer seats.
b. Fast food, with or without drive-through	One (1) parking space per employee per largest work shift plus one (1) parking space for each three (3) customer seats. Provided, however, in no case shall any such use provide less than five (5) parking spaces (also subject to the drive-through requirements of section 732-213).
c. Fast food, drive-through only (no seating)	One (1) parking space per employee per largest work shift plus a minimum of three (3) additional parking spaces (also subject to the drive-through requirements of section 732-213).
28. Taverns and night clubs	One (1) parking space per employee per largest work shift plus one (1) parking space for each seventy-five (75) square feet of gross floor area.
29. Retail or service commercial uses - individual, freestanding uses: including but not limited to: Bakeries; drugstores; beauty and barber shops; package liquor stores; laundromats, photo studios; jewelry, gift, appliance and similar stores; personal service shops	Three and one-half (3.5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required for any individual, freestanding retail or service commercial use unless listed separately in this section, in which case the parking requirement noted for that specific use shall be utilized.  Provided, however, that in no case shall any individual use provide less than five (5) parking spaces.

30. Retail or service commercial uses - integrated centers (as defined in section 732-217)	<p>a. If the total gross leasable area of an integrated center is less than four hundred thousand (400,000) square feet, four (4) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required;</p> <p>b. If the total gross leasable area of an integrated center is greater than four hundred thousand (400,000) square feet, but less than six hundred thousand (600,000) square feet, four and one-half (4.5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required.</p> <p>c. If the total gross leasable area of an integrated center is greater than six hundred thousand (600,000) square feet, five (5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required.</p> <p>Provided, however:</p> <p>(1) In no case shall any individual use provide less than five (5) parking spaces; and</p> <p>(2) The following individual uses: grocery store/supermarket; theatres - motion picture or legitimate; bowling alley; or night club, shall provide parking spaces as required for the individual use by this section and such calculation shall be separate from the calculation of the gross leasable area calculation of the integrated center.</p>
31. Roller/ice skating rink	One (1) parking space for each two hundred (200) square feet of gross floor area in the building.
32. Schools: business, technical, trade, and vocational	One (1) parking space for each one hundred (100) square feet of gross floor area in the building, or one (1) parking space per each twenty-five (25) square feet of classrooms, whichever provides the greatest number of spaces.
33. Theatres: motion picture or legitimate	One (1) parking space for each three (3) seats.
34. All uses permitted in the C-ID Commercial-Industrial District:	One (1) parking space for each two (2) employees per largest work shift, plus five (5) customer spaces. Any floor area in the establishment devoted to retail sales shall require additional customer parking spaces in the amount specified elsewhere in this section for the type of retail sales involved.
35. Uses not specified	For any commercial district use not specified above, specific requirements shall be determined by the Administrator and shall be based upon requirements for similar uses, expected demand and traffic generated by the proposed use, and other information from appropriate traffic engineering and planning criteria.

SECTION 5. Should any provision (section, paragraph, sentence, clause or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end, the provisions of this ordinance are severable.

SECTION 6. This ordinance shall be in effect from and after its passage by the Council and compliance with Indiana Code Section 36-3-4-14.

## **ANNOUNCEMENTS AND ADJOURNMENT**

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor Sanders stated that she had been asked to offer the following motion for adjournment by:

- (1) All Councillors in memory of Charlie Pfau, Fred Cherry and James Rosebrock; and
- (2) Councillors Gray, Brown and Pfisterer in memory of Fred Pervine, Sr.; and
- (3) Councillor Brown in memory of Timothy A. Wynn; and
- (4) Councillor Mansfield in memory of Dr. Julius M. Goodman; and
- (5) Councillor Malone in memory of John Baird, Clarence "Bubblegum" Glass, Sr., Ron Steele, and Nevils S. Shedd, Jr.

Councillor Sanders moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of Charlie Pfau, Fred Cherry, James Rosebrock, Fred Pervine, Sr., Timothy A. Wynn, Dr. Julius M. Goodman, John Baird, Clarence "Bubblegum" Glass, Sr., Ron Steele, and Nevils S. Shedd, Jr.. He respectfully asked the support of fellow Councillors. He further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 9:06 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 11th day of February, 2008.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.

President

ATTEST:

Clerk of the Council

(SEAL)

